

THE CALCUTTA JOURNAL,

OF

Politics and General Literature.

Vol. V.]

MONDAY, OCTOBER 8, 1821.

[No. 266]

SUMMARY OF NEWS.

—405—

Politics of Europe.

There were no Shipping Arrivals on Saturday; and the Madras Papers of the 18th and 19th ultimo, which came by the Dawn of that day, furnished only a few Nautical Notices, which will be found in another page.

We have profited by this absence of more pressing claims on our space, to give two Sheets of our present Number to an Article of considerable interest and importance, from the *FRIEND OF INDIA* which we recommend to the attentive perusal of all who feel any interest in the improvement of their species, and the progress of knowledge and happiness among the human race. Our reasons for not republishing immediately the excellent Papers written exclusively for this valuable and useful Publication, have been before stated; and we may repeat here, that as we desire to see its circulation extended as widely as our own, because the objects to which it is devoted are of the highest class, and their attainment full of the most auspicious promise to the future interests of India, so we would not willingly lessen the desire to possess the Work itself by too hasty a republication of its best parts. As this JOURNAL, however, finds its way to the most remote quarters, with greater speed and facility than any larger Work could be transmitted there, and as, moreover, we have the countenance and permission of the esteemed and intelligent Conductors of this Publication to make such use of their labours as may appear to us most likely to promote the great end of human improvement, we shall always feel a sincere pleasure in aiding their benevolent exertions, by making them more generally known. The able manner in which the present Question regarding the use of a Foreign Language in the Native Courts, is treated, leaves us nothing to add, but a strong and earnest recommendation to all who are in authority, whether they be near to or remote from the Great Source from which such improvements as those suggested must directly spring, to use all their influence in promoting those safe and wise and easy Reforms, which even the best governed countries occasionally require, and to stay the progress of which would be to destroy all hope of future improvement and to wage war against the happiness of mankind.

We turn from this digression—as we desire generally to confine whatever relates to India, to the Asiatic Department of the Paper—to such European Intelligence as we can find room for in the space that remains.

Now that habit has reconciled the nation somewhat to the unjust treatment of the Queen,—that Time, that powerful Operator, has cooled the indignation excited by the Manchester Outrage,—that the call for Reform seems for a time suspended, not because the people cease to feel its necessity, but because they find their voice is raised in its behalf in vain,—now that the Ministers are voting the necessary sums with comfortable majorities; as coolly perhaps they would vote the nation's last farthing,—the attention of the Friends of Liberty is attracted to its struggles in other countries than their own. The Greeks, the Spaniards, the Portuguese, are now on their trial; Superstition and Tyranny are leagued against them, and Europe waits with anxiety to see the result; whether, like Italy, they shall be condemned to sink again under the yoke, or be advanced and confirmed in the rank of free countries. On their own efforts and wisdom alone must they depend for success; there is no Government in Europe now,

that will draw a sword in favor of Civil Liberty; the most they can hope for, is the forbearance of Tyrants, who will yet regard them with an evil eye, watchful for a plausible ground to take the field against them. The Manifestoes of Russia, the unprovoked aggression of Austria on Italy, and the acquiescence of England, can never be forgotten.

According to the latest accounts, the affairs of Spain wear a sombre aspect. Faithlessness in the monarch, treachery in the cabinet, and insurrection in the provinces, are enough to distract a government of longer standing; and even should such a host of difficulties be surmounted, the greatest lovers of Liberty may regret that it must be purchased with so much blood. Spain is not attacked, as France was formerly, and Italy lately, by open foes, by armies of Foreigners, marching against her and dictating the form of government she shall adopt. She has, however, to complain that encouragement has been given to secret enemies to plot her destruction. The Holy Allies, by their declarations against Liberty, hold out a premium to all who will plot the destruction of any free Government; and the man who could contrive the destruction of British Liberty, and sell his country, would become (perhaps now is) the bosom friend and confidante of the Holy Allies. The Spanish Priests are well aware of this; and to regain their complete ascendancy over the public mind and in the affairs of the state, they would willingly make splendid fortunes, as others have done before them.

In the French Revolution there was less danger of a reaction taking place from such a cause. The public mind was every way more prepared for a change; the great activity of the Press, for many years previous to this, had disseminated amongst the people's ideas incompatible with the existence of the ancient institutions. Voltaire and other writers of that school had broken the power of the Priests; and unfortunately for France, and for Europe in general, in attacking the superstitions of the Church of Rome, they levelled their batteries against Christianity itself; or, to borrow a simile from Swift, which he has unjustly applied to Calvinism, the garment was destroyed along with the meretricious ornaments Popery had blended a id i terwoven with it in the vulgar mind. The effects of this complete relaxation from any acknowledged principles, have been deplorable; and at the time of the Revolution it left the Priests without any hold on the public mind by which to bring it back to the ancient institutions, or to stay its fluctuations and check the rage of perpetual innovation. But Spain has so lately been emancipated from mental slavery, that an immense mass of ignorance and superstition remains yet undispelled. The absolute rule of the Priesthood is indeed at an end; but their works of darkness still continue. Thousands of minds are clouded with inveterate prejudices, that will cease only with an existence which they would willingly sacrifice to defend them. With these prejudices, like the wires and strings of a puppet-show, the Priests make them move according to their bidding; and as all the holy brotherhood are bound together by one common interest, and with characteristic craft all work in concert, their secret machinations must be pregnant with extraordinary danger to the Government. Time, however, combats against them: the diffusion of information will every day seduce some deserters from their ranks to strengthen their adversaries. Even a present victory will be only an ultimate defeat; for the convulsion that has taken place, has so deranged the machinery

of despotism, that it can never be reorganized; a Government of Civil and Religious Despotism, so absolute as to exclude from the nation the light and knowledge of the nineteenth century, cannot be re-established; and wherever that cannot be done, Liberty will be sure to triumph, whatever temporary wounds she may sustain in the struggle.

The following articles are from the English Papers of May, the greater part of them from the *MORNING CHRONICLE* of the 18th and 19th of that month.

London, May 18, 1821.—We received yesterday the Paris Papers of Monday last. The following are extracts:—

Paris, May 14.—Our Bayonne Correspondent writes us, under date the 8th of inst. that the last courier from Madrid narrowly escaped from being captured at Burgos by the Guerillas. Several shots were fired at him. On the evening of the assassination of the ill-fated Vinuesa, the populace surrounded the residences of the Authorities, and demanded the heads of twenty-five persons, who are all related to the first families of Spain.—*Gazette de France.*

Vienna, May 3.—The Emperor of Austria is expected at Schoenbrunn on the 20th instant. His Imperial Majesty, to testify his high sense of the signal services of the Generals in Chief, MM. Frimont and Bubna, has conferred the Grand Cross of the Order of the Iron Crown on the former, and on the latter the Grand Cross of St. Leopold.—*Private Letter.*

Intelligence from Jassy, dated the 13th of April, states, that the resolutions taken by their Majesties the Emperors of Austria and Russia, relatively to the commotions which have broken out in the Two Principalities of Moldavia and Wallachia, have excited the strongest sensations in that quarter. They were scarcely made known on the 10th instant, at Jassy, when the Boyars, with the Primate at their head, repaired to the residence of the reigning Hospodar, to urge him to depart immediately. Prince Michael Suzzo, with tears in his eyes, resigned the reins of Government, and, during the night of the 11th, quitted Jassy, with his family, and all his suite, and the Magistrates (*Ephores*), taking with him the military chest of the Greek insurrection. He has taken the route of Bessarabia. He leaves considerable debts in the quarter he has quitted.

The sentence of excommunication issued by the Greek Patriarch, and which was just received at Constantinople, pronounces an anathema against Michael Suzzo, and all those who have taken part in the conspiracy against the Grand Seigneur, their legitimate Sovereign. The Divan or Council assembled immediately after the departure of Prince Suzzo; they were engaged in consulting upon sending a deputation to the Porte, to represent to the Ottoman Government, that the inhabitants of Moldavia have not in any way taken up arms against their lawful Monarch, and that Michael Suzzo alone is guilty of what is past; and further, to solicit the Porte to send another Hospodar into Moldavia.

The Divan also recommended to the inhabitants of the different districts of Moldavia, in which may be any of the soldiers of Prince Ypsilanti, to put them to flight, should they remain seven days after the departure of Michael Suzzo. Representations have also been addressed to the Pasha of Ibrail, to prevent the entrance of the Turkish troops into Moldavia, inasmuch as the Divan was itself occupied in enforcing the necessary measures to put down the Greek insurrection, from which the capital was already delivered. The Turks at Ibrail, Galatz, and on the Lower Danube, have as yet made no movement.

According to news from Bucharest, dated April 12, the sentence of excommunication issued against the rebels by the Greek Patriarch at Constantinople, was read by a Deacon on the 8th at the Churches of St. John and St. George. On the same day, preparations were made for fortifying the town; but the want of money compelled the Authorities to renounce the project. The Boyars are actively engaged in procuring, by a forced loan, a sum of two millions of piastres, which is destined to meet the expenses of subsisting the troops of Ypsilanti. They have already commenced to levy the tax upon the Clergy and the Jews; the

former were assessed to the amount of 100,000 piastres, and the latter 20,000. All Corporate Bodies are to contribute in proportion.

Prince Ypsilanti arrived in the vicinity of Bucharest on the 9th of April, with 1000 men, Greek troops, and three pieces of cannon mounted upon bad carriages. He occupied the Castle of Gregory Ghika, at Colentina; but Duka, who commands under him, entered Bucharest with 200 men. All the forces of Ypsilanti which have been greatly exaggerated, scarcely amount to 5000, who have with them seven pieces of ship cannon.

The day following the arrival of the corps of Ypsilanti, the troops of Theodore Wladimirskoe retired to the Monastery of Cotretsiani; he remained himself at Bucharest, with fifty men, but on the 12th he left the town to join his troops at the Monastery.

Frankfort, May 8.—We learn from St. Petersburg, that several orders have just been issued by the War Department, conformably to which a considerable body of Russian troops are in movement. A Russian army is on its way to Italy (it is known that it has received counter orders, and that it will remain during some time on the frontier). Two armies of reserve will be stationed on the eastern frontiers of Poland, one, which is formed of the troops cantoned in northern Russia, will assemble on the Dwina, under the orders of General Sacken; the other, which is composed of the troops in the Ukraine and in the Colonies, newly formed in the interior of Russia, will unite in Volhinia, and will, it is said, be commanded by Prince of Wittgenstein.

The best understanding reigns between Austria, Russia, and Prussia. They have irrevocably agreed to maintain the existing state of things in the South of Europe, in order to avoid new revolutionary commotions.—*Austrian Observer.*

Madrid, May 3.—The insurgents of Castile continue to cause much uneasiness to our Government; Merino, one of their chiefs, is no common man; he has succeeded in attacking the whole province by the power of an ascendancy of mind which they cannot resist. For the present he does not proclaim himself an enemy to the new institutions. On the contrary, he preaches up their preservation:—what he pretends to combat is, the Government, the system adopted by the Cortes—the preponderance of a faction, the existence of which cannot be denied. On the other hand, he is guilty of great cruelty; he pillages every where, and takes by force the men who resist him. What proves the power he has over the minds of the Castilians is, that the Political Chief of Burgos, to whom the Government sent 20,000 piastres, to pay spies to watch the movements of this infamous insurgent, has made answer to the Ministry, that he has not been able to meet with a single man who would undertake the service, whilst he (the Political Chief) is in his turn surrounded with spies. Whatever the cause may be, three of our best Generals are in pursuit of Merino, without being able to take him, viz.: l'Empecinado, Lopes Bagnos, and Riego. The first has narrowly escaped falling into the hands of the factious, who have taken 80 men in one encounter, and 38 in another. After this famous Priest, the person who now most excites public curiosity is the Treasurer-General, D. Domingo de Torres, who has just been deprived of his office, on account of the doubts which have been excited in consequence of suspicions respecting the deficiency of part of the sums accruing from the French Loan.—The Cortes have appointed a Committee to examine this affair; but the Government has taken measures as severe as the circumstances require. According to the information which can be obtained of the affair, it appears that no one knows what has become of sixty-five millions of reals (650,000*l.* sterling) of the said loan.

Suspicious fall on the head of the Ex-Minister Canga Arguelles, and his friend, the famous banker, Bertran de Lis. It is on them that the Treasurer throws all the blame of his accounts. The result of the inquiry is impatiently looked for. The King has at last nominated the Counsellors of State out of the triple lists presented by the Cortes, according to the Constitution. You know that all the old Ministers were on the lists. The new Ministry advised the King to take two of their predecessors—viz, M. Arguelles and Garcia Herreros. But the King was inflexible.

Monday, October 8, 1821.

—407—

Not one of those Gentlemen has been appointed. General Villalba, Captain-General of Madrid, has just been deprived of his office. It is said that his successor is to be General Morillo, who is now at Madrid, where he enjoys public esteem. The Government has received the details of the extinction of a band of insurgents, who had united in Salvatierra, a fortified village a few leagues from Vittoria. It was General Lopez Bagnos who exterminated them; 500 of these poor wretches are prisoners.

Our Ministers appear still persuaded of the approaching invasion of the Russians, in spite of the famous declaration of M. Pasquier in the French Chamber of Deputies. The general opinion here concurs with them, and it is thought the French Government will not oppose this political crime. Our hopes are in England; we cannot believe that noble and generous nation will lend itself to such an assassination of liberty.

In the Sitting of the Cortes to-day, forty Deputies, among whom were Messrs. Calatrava, Giraldo, Golsin, Vadello, &c., proposed to the Cortes to grant a pension of 3,000 piastres to the ex-Ministers. This proposition seems neither timely nor politic in the present state of our Treasury. It has been warmly opposed by Mr. Romero Alpuente. A Committee has been appointed to examine it.

The funeral ceremony of the 2d May was yesterday celebrated with great pomp. The first stone has been laid of a monument to be raised to the memory of the victims of that day, too well known in the history of our misfortunes. All the inhabitants of Madrid were in mourning.

It is said the King will not sanction the law on popular assemblies; at least the Council of State has loudly disapproved of it.—*Private Letter.*

London, May 6, 1821.—This week has been on the whole barren of intelligence, which the public would deem interesting at a period so critical to almost every country in Europe. The news from Turkey is scarcely more than a collection of rumours, from which nothing can be gathered that would indicate the probable result of the contest. From Italy, we only hear of new severities against the noble and virtuous men, who did their best to free themselves and their country from a galling and unjustifiable servitude. FERDINAND had left Florence on his homeward journey, but did not seem in any vast haste to gladden the hearts of the Neapolitans by shewing his paternal countenance ushered in by myriads of Austrian bayonets. He was expected to stay at Rome during the Holy Week. In the mean time, why are not the Calabrian provinces and Sicily reduced by the Austrians? Do the latter find enough work in guarding the dutiful territory which (they protested) received them with so much joy?

In Spain, indeed, there appears to be what Lord CASTLEREAGH—(we beg pardon, but we really cannot spare a name so burnt in upon our most deeply-seated recollections)—what Lord CASTLEREAGH calls a "general working of events." The temporary overthrow of Liberty in Italy has given new energies to the discontented priests and court-tools, who are seeking to destroy a system under which the many are enabled to take care of their own interests. The country is consequently infested by bands of agitators, the combined forces of dispossessed corruptionists and highway robbers. (What does not that coalition say for the cause!) At the same time the Spanish People remain in a state of uncertainty and alarm respecting the intentions of the mighty men at Laybach, who are expected to attempt the completion of their great work of "suppressing the agitators for ever."—(for nothing else do they talk of)—by an assault on Spain. France however stands in the way of this second paternal "settlement of Europe;" for though that country is doubtless blessed with a few raving Ultras who would run the imminent risk of another Revolution, for the sake of making all Europe grovel with themselves at the altar of Divine Right,—yet those who sway French councils at present are not of this class, but rather persons who, having for the most part been "all things to all men," have ended in being devoted to nothing but their places, and would certainly not risk those for any abstract principle, whether legitimate or popular. Indeed they would very likely be pleased with an

opportunity of gratifying the national wishes in a way which could not interfere with their own selfish gains. Louis himself, who was never an Ultra, may perceive the policy of doing something popular with regard to the Allies; and this possibly is the secret of the late gracious reception at Court of the Duc de Cazès.

Two more provinces of Brazil have followed the example of Para and Bahia. The people of South America are luckily not troubled with neighbours whose paternal care and instinctive regard for social order interfere with their desire to improve their political condition. When they get a conviction that a nation is better governed by its own Representatives than by a despot and his courtiers,—they remove the latter nuisance by a simple manifestation of their will. They know nothing of that admirable system under which one State is prevented from making itself free and respectable, because the rulers of another have a fear of the "contagion" of change!—*Champion.*

Execution.—Disgraceful conduct of a Hangman.—On Saturday week, at a quarter past one, William Morley Stubbs, aged 23, who, at the last assizes, was convicted of a gross assault and highway robbery, was executed on the new Drop erected near the city gaol, opposite to the Old Bait-hill, York. The offence for which the young man was executed was a very aggravated highway robbery.

We cannot conclude without stating a most disgraceful occurrence on this melancholy occasion. Previous to the Culprit being brought to the gallows, the Executioner suspended the cord, after which, with apparent glee, he explained to the populace, "Some of you come up, and I'll try it!" At one o'clock the unfortunate man was conducted to the Drop. The Executioner, in a bungling manner, and with great difficulty (being in a state of intoxication,) placed the cap over the Culprit's face, and attempted several times to place the rope round his neck, but was unable. He missed the unfortunate man's head with the noose every time that he tried. The cap was each time removed from the Malefactor's face, who stared wildly round upon the spectators. Horror and detestation seemed to pervade every breast; and there were cries of "Shame, shame! he's drunk; Under-sheriff, do your duty!" But the Under-sheriff (Mr. Hewley Graham) did not offer to interfere in this disgusting proceeding. Mr. Ryan, the humane governor of the gaol, much affected, advanced to the front of the drop, and entreated the populace to preserve silence, which they did immediately. The Executioner, however, was not able to perform his duty, without the assistance of the gaoler and one of the Sheriff's officers. No sooner was the unfortunate Sufferer launched into eternity than the Executioner was assailed by the populace with shouts of execration, and several called out, "Hang him—hang Jack Ketch, he's drunk," &c.—*Stamford News.*

Charles the First.—The sheet which received the head of Charles I. after its decapitation, is carefully preserved along with the communion plate in the church of Ashburnham, in this county; the blood, with which it has been almost entirely covered, now appears nearly black. The watch of the unfortunate Monarch is also deposited with the linen, the movements of which are still perfect. These relics came into the possession of Lord Ashburnham immediately after the death of the King.—*Brighton Herald.*

Fossil Skeleton.—A large fossil skeleton of the *Icthyo Saurus* *Platydon*, or *Proteo Saurus*, was lately discovered in the blue lias formation at Lyme-Regis, Dorset. The head of this skeleton, from the orbit to the termination of the nose, is four feet and a half long, with the teeth well defined, with the process of the sternum, scapulae, humerus, &c. and the whole length of vertebrae, being from 18 to 20 feet in length.—The illustration of the osteology of the *Icthyo Saurus*, or *Proteo Saurus*, was the subject of a celebrated paper addressed to the Royal Society by their Vice President, Sir Edward Home, Bart. and was published in the *Philosophical Transactions* for 1819.

Skeletons.—Above forty skeletons have within the last fortnight been dug up on the Sussex Downs, by flint diggers; no doubt part of the slain in the battle that was fought there between King Henry the Third and his Barons in the year 1264.—*Star.*

Selected Poetry.

From the *Literary Gazette*, May 12, 1821.

By T. Campbell.

Never wedding, ever wooing,
Still a love-lorn heart pursuing.
Read you not the wrongs you're doing,
In my cheeks' pale hue?
All my life with sorrow strewing,
Wed—or cease to woo.

Rivals banished, bosoms plighted,
Still our days are disunited;
Now the Lamp of Hope is lighted,
Now half quenched appears,
Damp'd and wavering, and benighted,
Midst my sighs and tears.

Charms you call your dearest blessing,
Lips that thrill at your caressing,
Eyes a mutual soul confessing,
Soon you'll make them grow,
Dim, and worthless your possessing.
Not with age, but woe.

Balfour's Poems.

Contemplation; with other Poems. By Alex. Balfour. Edinburgh, 1821.

The Author of these poems is also a novelist; and, in an age when wonders were less rare than in the present, his talents would have ensured him no small share of the public attention. From early life to middle age he was engaged in manufacturing and mercantile pursuits; and at the time when the great commercial convulsions took place, after the Orders in Council, he was an opulent country merchant. Like many others, however, he was then ruined; and, with a large family, was reduced to seek the means of living in a manner which was never anticipated. He was last occupied in taking charge of the books of an extensive bookseller in Edinburgh; but, about two years ago, was attacked by rheumatic and other complaints, which soon deprived him of the means of locomotion. He has been able, however, to write more than one novel, and to revise and add some pieces to what, at one time, were poetical amusements. The following stanzas, in which he refers, with much feeling and delicacy, to the present state of his health, will serve to shew that the muse of poetry has had many votaries of less talent.

"For ah! no more to me the boon is given,
To mark the varied charms of Nature's face;
Abroad, to breathe the balmy air of heaven,
My fond eye gazing over ample space,
From virgin Spring to Autumn's matron grace,
To me, alas! each blossom blows in vain;
No more my feet the mountain path can trace;
Nor brush the dew-drops from the daisied plain;
My trembling limbs fast locked in adamant chain!

And yet, these limbs in chilling torpor bound,
A shade can startle—and a breath can shake;
The throbbing heart heaves at a passing sound,
As ruffling winds disturb the glassy lake:
At trivial ills the shattered frame will quake,
Each quivering nerve with keen sensation thrill,
And feelings exquisite, to anguish wake,
The sigh, the tear, triumphing o'er the will,
While reason vainly tries to hush the tempest still.

Yet kind companion of my happier days,
Thou hast not scorned me in this evil hour;
Thy song has soothed me in the wildering maze,
And strewed my tiresome couch with many a flower.
Enchantress! stay—happily thy magic power
Again may chase my lingering hours of care;
May shew my sorrows, like an April shower—
A passing cloud, the pilgrim to prepare
For scenes of endless day, and skies for ever fair."

The two courtships (p. 257.) evince a genius for humorous narration and description, which, we regret, has not been more cultivated. The tale now alluded to has great merit.—*Scotsman*.

Extraordinary Case.

From the *Literary Gazette*, May 12, 1821.

Professor J. D. Herholdt, of Copenhagen, Knight, delivered in the Royal Medical Society, at Copenhagen, on the 8th March last, an interesting Latin Dissertation; it relates undoubtedly to one of the most remarkable cases in the Annals of Medicine. A woman after having been subject for several years to violent pains and spasms, was freed by the ability of this Physician, from 273 needles, which were cut out in different parts. It is a question of great interest, how this extraordinary number of needles should have come into her body, and how far the pains which she suffered have been caused thereby. The woman is now doing very well.

Useful Institution.

SCHOOL OF ARTS FOR THE BETTER EDUCATION OF THE MECHANICS OF EDINBURGH.

From the most laudable and patriotic motives, a number of scientific and learned gentlemen, aided by some of the most intelligent master mechanics, have formed an association for the purpose of enabling industrious tradesmen to become acquainted with such of the principles of mechanics, chemistry, and other branches of science, as are of a practical application in their several trades. Paris has considerable advantages in this respect; and so has Glasgow, by means of the Andersonian Institution. The School now projected seems to promise great advantages to Edinburgh; and it must be the more grateful, that its success will depend on the mechanics themselves, who, by the contributions taken from them, will retain a feeling of independence. The Prospectus is in the following terms:—

The expense of small schools and of private instruction is necessarily greater than a working mechanic can afford; but if the Tradesmen of Edinburgh are desirous of a better education, and are willing to lay aside for that purpose such a portion of their earnings as they can reasonably spare, it is quite practicable to adopt such a system as will place within their means all the scientific instruction that would be useful to them; and there is every reason to believe that they will find the more opulent classes of Edinburgh quite ready to come forward in support of so laudable and beneficial a scheme; nor is there any way in which it can be so effectually promoted as with the advice and co-operation of the better educated part of the community.

It is with the view of submitting such a plan to a fair experiment, that this institution has been established, and it now remains for the Tradesmen themselves to come forward, if they are anxious to remove this imperfection in their education, which must so often stand in their way in the daily exercise of their business, and must still more obstruct the chances of improvement and discovery.

It is intended that there shall be Lectures upon Practical Mechanics and Practical Chemistry, to be delivered twice a week, from 8 to 9 o'clock in the evening, from October to April.

It is also intended, that there shall be a collection of Models and Instruments, a Library of Books on Mechanics and Chemistry, and their application to the Arts, and on all branches of Natural and Physical Science; which shall circulate among those who attend the lectures, and be lent out throughout the whole year.

It would be desirable that instruction should be given in Mechanical and Architectural Drawing; but these are points that cannot be decided until it is ascertained whether there will be a sufficient fund for the purpose.

The terms of admission will be as follows:

Every person who subscribes 15s. either at one time or in two successive quarterly payments, will be entitled to attend all the lectures that are delivered in the course of one year, and will have the privilege of getting out books from the library for the same period. The year to commence on the 1st of October.

Subscriptions for one quarter will be received at 7s. 6d. from each person; but, in that case, the privilege of the lectures and the library will cease at the expiration of the quarter.

Communications to be addressed to L. Horner, Esq. No. 58, Great King Street.

Those who mean to attend the lectures will put down their names at the Shop of Mr. Bryson, Watchmaker, No. 8, South Bridge; and the Committee earnestly request that this may be done without delay, as no final arrangements can be made until the number who mean to attend is ascertained.

The Committee are desirous of opening the library as soon as possible without waiting for the commencement of the lectures.

No money will be required until the library is opened.—*Scotsman*.

ASIATIC DEPARTMENT.

—409—

Indian Courts of Judicature.

ON THE USE OF A FOREIGN LANGUAGE IN THE INDIAN COURTS OF JUDICATURE.

(From the last Number of the Friend of India.)

There is something in the human mind which renders it partial to ancient errors, however absurd in their nature, or injurious in their effects. From whatever principle it may proceed, that which our predecessors did, comes recommended to us with a force almost irresistible. Nor is this the case merely when a custom or practice has been evidently the dictate of wisdom. It may have originated in accident,—in the idleness of those who preceded us—or even in their vices. Still it is ancient; it was the practice of others before us. What! are we wiser than they? more capable of entering into their circumstances who are so far remote from the period of action, and so little acquainted with the reasons which originated the practice in question? It cannot be; our predecessors were surely wiser than we are, or at least they possessed opportunities of judging which far exceed ours. They must therefore have been right; and for us to examine customs they have left us, the principles of which are now lost in oblivion, what arrogance! what folly! On grounds equally solid with these, did our ancestors plead for the superior advantages of performing their devotions in Latin of which they understood nothing, against all that modern innovators could urge; and in that age of humility, when a prelate meekly accepted the aid of a friend in signing a deed, nor forbade the record, "as my Lord Bishop cannot write I have signed this instrument for him," if in the formula of devotion the radical part of a verb were by some accident changed, still in expressing to the deity the idea "we have taken," the new, the innovating *sumpsimus* was in value incomparably below the venerable *sumpsimus*. Thus too the innovation of the fantastic Galileo in presuming to maintain, that this firm and stable earth whirled itself round like a child's plaything, was, in the opinion of the grave and the learned of that age, deservedly rewarded with a lodging in the holy office: and thus the Hindoos now insist, that in deeming a river, a stone, a log, the Author of their being and of all their blessings,—in regarding a tribe generally the most immoral, as capable of obliterating the crimes of all the other tribes—in burning alive their widowed mothers and sisters, they are certainly right; these things were practised by their forefathers, and to question their propriety, or even to attempt to examine them, would in them be egregious arrogance.

The sources of this conduct it is not very difficult to trace. When this professed veneration for ancient folly is not a mere cloak to enable one class of society to deceive and fleece the rest, it often springs from that mistaken regard for ancestors, which, regulated by reason, becomes filial veneration; but without it, tends to make our ancestors all and our Creator nothing, to make us forget that we also are intrusted with reasoning powers, of the application of which we must give account to the Great Parent of mankind, and that each generation (and even each individual) has a responsibility attached to itself from which no human authority can absolve it, and which no reliance on antiquity can lessen; inasmuch as former generations, even from the beginning, have been liable to be led astray by self-love, or blinded by interest, or hurried away by the impetuosity of the passions, or lulled asleep by the power of indolence. To act thus and thus therefore, because our forefathers did the same, who were equally corrupt and fallible with ourselves, with less of experience to guide them, is in reality to renounce our own reason and to disobey our Creator and Sovereign who has directed his commands equally to every generation, and who will judge every man according as his work shall be.

It is not always from this blind veneration for our predecessors, however, that we continue to perpetuate customs in themselves highly preposterous. Many possessed of the clearest understanding and the soundest judgment, continue to do this merely from irresolution of mind. They are convinced that the practice is wrong; they feel its absurdity, they lament its effects; but to change it requires mental labor, the greatest dread of the human mind. To express their ideas of the evils with which it is fraught, requires thought; these evils must be examined so as to be demonstrated to others, that we may justify our own conduct to them if we are able to act singly, and carry conviction to their minds if we need their concurrence. This is labor of which few minds are capable; and hence a thousand excuses are formed within. We hope the practice in question is not so injurious in reality as it appears; we at least did not originate it; wiser men than ourselves have trodden in the same path. Besides, we are not alone; in the guilt or the folly, if it be such, multitudes share as deeply as ourselves;—and we may have comparatively but a small time longer to remain connected therewith; and what have we to do with futurity? "Let us leave the whole," says one, "to Divine Providence, which never will be remiss in watching over human affairs;" or says another less devoutly inclined, "to that chance which governs all terrene objects." Thus the mind is often quieted, the conscience lulled to sleep, and the man of probity,

judgment, and penetration, brought to persist in customs, which if he could separate from himself and view only in connection with others, he would despise for their absurdity, and abhor for their injurious effect on mankind.

The use of a foreign language in the judicial affairs of British India, has long occupied our attention. Its singular nature forced it on our minds many years ago, and induced us from time to time, to converse on the subject with the well-informed among the Natives, as well as with various European gentlemen who, from their long residence in India, their practical knowledge, their probity of character, and their concern for the welfare of our Indian fellow-subjects, have deservedly stood high in the ranks of British India. A view of the growing importance of our Indian empire, and a consideration of the indulgent manner in which the public have received discussions on various subjects relating to the happiness of our Indian fellow-subjects, have induced us at length to submit to our readers the following thoughts, in the hope that, if they produce no other effect, they may at least draw the attention of abler minds to this important subject.

It is a well known fact, that while in the Supreme Court instituted for British subjects, all causes are conducted in the English language, in the Courts instituted for Natives, judicial proceedings are in general conducted in a language equally foreign to the parties, the advocates, and the judge,—in the language of Persia, a kingdom distant from the seat of the British Government above two thousand miles, from which India has derived none of its laws, and with which it has scarcely a remote communication. That such an anomaly in the history of nations should exist under the British Government at the beginning of the nineteenth century, may justly furnish matter of surprise. To an examination of the reasonableness of this course and the probable effect of its being discontinued, the following pages are devoted; and in judging of its nature we shall be much assisted by taking a view of judicial proceedings as they have been conducted among those nations most celebrated for jurisprudence in different ages of the world.

The protection of the weak from the violence of the strong, was evidently a grand object in the original formation of society. Hence judicial proceedings have in every age constituted the chief means of diffusing satisfaction and tranquillity through the various ranks of society. The formation of just laws, which should be alike coercive on the weak and the strong, the rich and the poor, the high and the low, is among the chief benefits which men receive in return for surrendering to society a portion of those rights which all possess by nature. As long as men perceive themselves surrounded by those who are restrained from injuring the property, the person, the life of their neighbor, neither by motives of feeling, nor by the fear of their common Judge, the certain persuasion that they shall not be deprived of their property because it may be the object of desire to others, or of their liberty and reputation because others may hate them, can alone furnish solid ground for individual quiet of mind and for general tranquillity. To secure this however, the most equitable laws are not in themselves sufficient. It can be realized by such an administration of them alone as shall create in every mind the assurance, that guilt will not be imputed on mere suspicion, that every accusation will be duly weighed, the truth or falsehood of every testimony thoroughly sifted, and such vigilance and impartiality exercised in administering laws, as well ascertain precisely the degree of guilt where it does exist, and completely defeat every malicious attempt against property or life. To secure these, every wise nation have deemed two things essential to the administration of justice, that judicial proceedings be conducted in the most public manner, and that they be in the common language of the people. In examining the judicial affairs of those nations most eminent for the equitable administration of justice, we shall find this to have been invariably the case.

If we refer to the Hebrew nation, who in jurisprudence are not only our most ancient authority, but an authority which excludes all doubt, since both their code of laws and the mode of administering them were of Divine appointment, we have sufficient data in their Records to conclude, that among them all judicial proceedings were conducted with the strictest regard to publicity. In these the gate of the city is constantly mentioned as the seat of judicial proceedings. Indeed ages previously, Job speaks of "the gate" as the place where he put on righteousness and it clothed him; where his judgment, or judicial decisions, were to him as a robe and a diadem, because he delivered the poor that cried for justice, and the fatherless, and him that had none to help him,—while the cause that he knew not, he searched out. The chief crime alleged against the Ten Tribes was, that they "turned aside the poor in the gate;" and as a proof of their forsaking it, they are exhorted "to establish judgement in the gate," which expressions sufficiently shew, that judicial proceedings were conducted in the place of public resort. That they were conducted in the language of the nation, is so clear, that an attempt to prove it would be an insult to the understanding. Before the Captivity there was indeed no other language in which judicial proceedings had the least chance of being conducted; and after that event, although the Jews were subject for centuries to the very nation whose language is adopted in our Native Judicial Courts, we have

* From *Sumo-sumpsi-sumere*, to take, to receive.

no reason to think that the Persian language was ever adopted in their courts of justice.

If we revert to the Greeks and particularly to the Athenians, from whom the Romans, according to Livy, were not ashamed to borrow the Twelve Tables which formed the basis of their laws, we shall find these two circumstances interwoven with the whole of their administration of justice. The Court of the Areopagus so famed throughout Greece for the justness and accuracy of its decisions, even sat in the open air, and heard causes not only in the vernacular tongue, but in the plainest possible form, "constraining whoever spoke before them," says Potter, "to represent the bare and naked truth, without any preface or epilogue, without any ornament, figures of rhetoric, or other insinuating means to win the favour or move the passions of the judges." The effect of their thus eliciting judicial facts in language so perfectly intelligible to all, was, that the common citizens of Athens were found capable of sitting in the courts of justice without any previous legal instruction. The judges were chosen out of the citizens without any distinction of quality, the lowest being admitted by Solon to determine causes, if above thirty and of unblameable character. Hence such of the citizens as were at leisure to hear and determine causes, delivered in their names for admission into all the courts, with the exception of the Areopagus.

The case with the Persian nation under Cyrus and his successors was nearly the same. The same care to bring judicial proceedings within the knowledge of all, was visible both in promulgating and administering the laws; every thing was conducted with the strictest regard to publicity, and to the people's having justice administered in the language they best understood.

If we come to Rome, which in point of jurisprudence has given the tone to nearly the whole of the European world, we shall find precisely the same care to give to their judicial proceedings the utmost publicity. It was in the audience of the common people that those Prætors sat and determined causes, whose decisions are to this day treasured up as part of the Civil Law; and if Cicero delivered his orations for Murena, Cornelianus, and Milo, those admirable compositions, before a select number of judges, it was still in the language understood by every Roman.

If we trace Roman jurisprudence down to the sixth century, the æra of Justinian, who collecting all the laws of his predecessors, formed the Code, the Institutions, and the Pandects which bear his name, we shall find these promulgated in the vernacular tongue of the Romans. Whatever translation of the Code, the Pandects, or the Institutions of Justinian might have been made into Greek for the use of the Eastern part of the empire, in the existence of these works in the Latin language to this day, and in the numerous maxims of the Civil Law constantly quoted in that language, we have full proof that they were promulgated throughout the Western part of the empire in its own vernacular language. That the judicial proceedings themselves therefore were in the language of the people, follows so much of course, that to attempt the proof of this fact would be a complete waste of time.

We have thus traced the history of jurisprudence through the most celebrated nations of antiquity, and even as low as the sixth century, without discovering a vestige of the practice with forms the subject of this Essay. If we recur to our own Saxon ancestors, to whom Britain is indebted for the most valuable part of her laws, as well as for her inestimable constitution, we shall find the same principle of good sense uniformly prevailing. To Alfred, so justly termed the Great, the institutor of the trial by jury, it seemed absolutely necessary that the code of laws which he compiled, should be in the common language of the kingdom, as well as the administration of these laws. The same feeling governed his successors Athelstan, Edmund the elder, and Edgar, by whom this code was enlarged. Nor did Canute venture to alter either the language in which the laws were promulgated, or that in which they were administered. Yet he might have furnished himself with a strong plea for such an innovation. He had obtained the kingdom by conquest; and not only was the Danish language the vernacular tongue of himself and his followers, with whom he naturally filled his court and the chief places of trust in the kingdom, but that of various colonies of Danes who in the course of nearly two hundred years had settled in different parts of England. Up to the eleventh century of the Christian æra then, we have no reason to believe that in any kingdom either of Europe or Western Asia, and we may add, of Eastern Asia, was a foreign language used in judicial proceedings.

We now come within view of the only two innovations of this nature that we recollect having been ever made; one in Europe, the other in India. That in Europe occurred in the year 1066, when William the Conqueror commanded all judicial proceedings throughout England to be conducted in Norman French, instead of the Anglo-Saxon or English language, in which they had been hitherto conducted, even in his reign. It is proper to add however, that this was not attempted till fifteen years after the battle which conferred on him the title of Conqueror. Nor was this a solitary act of tyranny: the despotic prince did not venture on this step till after he had forbidden his English subjects throughout the kingdom, the light even of a taper after eight in the evening;—till

to satiate his resentment he had rendered the country between York and Durham a perfect desert for sixty miles round by which act thousands of houseless wanderers perished through hunger and cold, and to gratify his love of hunting had depopulated thirty-six parishes in Hampshire to the destruction of thousands more;—nor till he had previously disposed of the greater part of the English nobility and gentry of their estates and bestowed them on his Norman followers, in such profusion that to one of them, Robert Fitzgibbon, were given no less than three hundred and sixty manors. That such a monarch should make a change in the administration of justice which filled all England with dissatisfaction, is certainly no wonder, particularly when it gratified the vanity of himself and his followers. But relative to this change, there are two things which ought to be mentioned.

This foreign language in which the English were thus compelled to seek justice from their Norman masters, was the vernacular tongue of the king and his followers, who while they filled all offices of trust and profit, and of course those in the various courts of justice, held the chief landed estates in the kingdom, the barons having parcelled out their lands in knight's fees to their followers, and these again to their vassals, who thus pervaded every part of the kingdom. This however was not the first appearance of the Norman language in England. Ethelred had married Emma, the sister of Richard Duke of Normandy, nearly eighty years before this period, who with her attendants introduced the Norman language into Ethelred's court: and her son, afterwards Edward the Confessor, took refuge in the Norman court during the continuance of the Danish dynasty, which gave him such a taste both for the language and the habits of the Normans, as caused much uneasiness to his own subjects, and ended in the introduction of the Norman dynasty.

The other circumstance is, that when William constrained his English subjects to conduct all judicial proceedings in his own tongue, he at the same time took measures to secure its being taught throughout the kingdom. Some historians say that he instituted schools for this purpose throughout England; but all agree that he ordered it to be taught in those which then existed. His object evidently was to make it the current language of the kingdom; and the failure of this scheme with all the advantages for carrying it into execution which arose from its being for above two centuries the language of the court,—of all public transactions—of judicial proceedings,—of nearly all the landed proprietors and a great part of the common people, sufficiently evinces the futility of any attempt to change the language spoken by the great bulk of a people. The event proved, that, notwithstanding all these advantages for carrying the plan into execution, two centuries and a half, while they introduced a multitude of Norman words into the English language which it retains to this day, did so little towards rendering universally current the language itself, that Edward the Third, one of the best monarchs who ever sat on the British throne, thought he could not gratify the wishes of his people more fully than by ordaining, as he did in the year 1362, that for the future, in the courts of justice and in all public acts, the English language should be used instead of the French or Norman introduced by William the Conqueror.

This wise measure, which filled the whole kingdom with satisfaction, seems to have communicated a new impulse to the cultivation of the English language. Within a few years after this act had passed, Wickliffe, then in his thirty-eighth year, began the translation of the Scriptures into English; and Chaucer the father of English poetry, who lived till the reign of Henry the Fourth, with Sir John Gower, began to try the powers of the language in various kinds of verse. How far this measure actually encouraged these our earliest English authors, we will not take on ourselves to say: but that the restoration of our language to its due place in the courts of justice and in all public acts, had this tendency, will be disputed we believe by few. Such a step invariably tends to refine a language by bringing it into continual use among the best educated men of the age, while it imparts to it that anticipation of stability which a language can never obtain while excluded from all judicial proceedings and public acts of government: and these circumstances, in the eye of an author, render it eligible as a vehicle for the circulation of his choicest thoughts and their preservation to future ages. Whatever influence these ideas had on the minds of the literati of that age, it is certain that the cultivation of the English tongue, which has now rendered it equal to the expression of every idea, and constituted it the depository of all knowledge both human and divine, commenced with this memorable æra. We have scarcely an English work which deserves the name before the reign of Edward the Third; and whether the language would have attained its present richness and high cultivation, had it to this day been excluded from every polite circle, from the courts of judicature, and all public proceedings, any one can judge who is acquainted with the nature of language and of the human mind.

The Asiatic instance we have of this nature, is that furnished by the Mussulman dynasty in India. At what period the Mussulmans constrained the inhabitants of Bengal and Hindoostan to conduct all their judicial proceedings in a foreign language, it is not easy to say; but the first invasion of India by Mahmood the Great, which led to this result, happened a few years before the period when the English were thus con-

Monday, October 8, 1821.

—411—

strained to admit a foreign tongue into their judicial proceedings. Thus the only innovations of this nature which have ever happened among the nations of Europe or Asia originated within a century of each other, and precisely from the same cause, the unfeeling folly of their lawless conquerors. The vast empire of China has been subjugated by various powers, and among others by that very dynasty which fixed this galling yoke on the neck of India; but neither its Mussulman nor Tartar conquerors ever ventured to introduce a foreign language into its judicial proceedings, or promulgate its laws in any other language than Chinese; although there are few languages less inviting to a foreign conqueror, or which involve a greater degree of labor in the acquisition. This tribute of labor, these conquerors have however been constrained to yield as the price of their quiet and secure occupation of the empire; nor has the present Tartar dynasty in particular, refused it to the genius of the country;—and nearly two centuries of quiet enjoyment have evinced the wisdom of the measure.

If India, however, was constrained to receive this mark of vassalage at the same time with England, she never like England enjoyed a paternal sovereign, who, entering into her circumstances, restored her language and literature to their natural course. This glory seems reserved for the British nation, whom four centuries have rendered well able to appreciate the value of this blessing from the high privileges it has conferred on themselves. That after having once imposed this mark of foreign servitude, the Mussulman dynasty should ever be inclined to remove it, was by no means to be expected. After having shewn an utter disregard to the feelings of the conquered, in violating and pillaging so many of their richest temples and cruelly slaughtering so many of the brahmanic tribe, it will excite little surprise that they should render perpetual this new mark of subjection, too evident to be concealed, and too deep in its effects not to be continually felt, particularly when it gratified their own feelings in proportion as it distressed the conquered nation. And that this measure constantly nourished the indolence, vanity, and oppression of their conquerors, a slight view of its operation will be sufficient to convince us. This language was their vernacular tongue; to transact judicial business therein cost them no duty, no labor, while it gratified their natural fondness for their own language. The pains and labor it cost the vanquished to acquire it, naturally fed their vanity: every degree of embarrassment felt, every sigh uttered in consequence, was a fresh acknowledgement of the conqueror's power, which could constrain them to suffer all this almost without daring to murmur. It also tended to feed a spirit of oppression. To the man capable of injuring his neighbour, courts of justice are by no means desirable; they are altogether a remora in his way. It is natural for him to wish them annihilated, or, what is nearly the same thing, rendered inaccessible. It is to the oppressed that courts of justice are interesting; and these in India were not very likely to be found among their Mussulman conquerors. That a Hindoo might never oppress a Mussulman, even in these circumstances, we will not affirm; but we think that for one case wherein the conquerors were oppressed by the conquered, a multitude would occur wherein the Hindoo would be the sufferer. The advantage which this introduction of their own language into the courts of justice would give the Mussulman defendant over the Hindoo plaintiff, are sufficiently obvious. If the latter found no difficulty in getting his case accurately represented in this foreign language, if his Mussulman translator narrated every particular with perfect exactness and so entered into his case so as to delineate even its very spirit, which, however could scarcely be expected from every mercenary translator, still what an advantage must the aggressor enjoy, speaking the same language with his judge, and striking terror into the trembling plaintiff by appearing one with him! What advantage must he derive from being able to represent his case to his countrymen with the living voice, and so to observe the air, the feeling, the spirit of his judge, as to turn it to the utmost advantage by enforcing one fact, discolored another, extenuating a third, while the poor plaintiff's written case remained susceptible of no addition, whatever the circumstances of the trial might demand! Surely in a multitude of instances, these circumstances must have deterred an oppressed Hindoo from bringing his complaint before a judge with whom his oppressor could converse familiarly in his own language. And when it did not wholly suppress all complaint, the meagre and inadequate manner in which it must appear in a foreign language, of which the oppressed knew so little, and in which he could neither check the partial dealing of his hired advocate, nor detect an inadequate or a wrong representation, would render it almost impossible for his cause to come in its full force before his foreign judge. All these circumstances would be so much clear gain to those who wished to oppress; and that in these circumstances the conquering nation should feel no wish to remove this yoke from the conquered whom they affected to detest as unbelievers, will excite no surprise.

That this practice, however, which so evidently owed its origin to the caprice of the Mussulman conquerors of India, and its continuance to their disregard of its happiness, should have been continued by a Government who, instead of disregarding the feelings of the people, delight in promoting their happiness, is perhaps one of the most extraordinary facts recorded in the annals of history; particularly when the English had

formerly been in the same circumstances themselves, and had found them intolerable. It can be accounted for only on the principle that while the human mind shrinks as long as possible from the formidable task of investigation, the circumstances in which the British Government have hitherto been placed, have been such as scarcely to bring the subject fully before them. It is little more than sixty years since judicial duties relative to the natives, began first to devolve upon them. They were by no means called at once to the awful trust of administering justice to Sixty Millions of Indian subjects; had they, no doubt all circumstances would have been weighed in the most careful manner. But instead of this, the important duty has devolved upon them by almost imperceptible degrees, and they can scarcely have been said to have entered fully thereon, till within the last two or three years. It was the successful termination of the late war which invested them with the full extent of judicial duty, and laid it on them as a sacred charge to administer justice to nearly the whole of the nations formerly subject to the family of Timur. But to accomplish at once all that may appear desirable, is seldom within the power of the best of men. It was not till we had possessed Bengal and Behar for twenty years, that the Supreme Court was established in India for British subjects; a court which, while it has established on the firmest basis the reputation of British jurisprudence throughout India, has so interwoven itself with all our ideas, that we are now scarcely able to picture to ourselves the former state of things when no court of this nature existed in India. Nor, when the custom we have been describing shall be abolished, and sixty millions of men shall be restored to the privilege, (if it be not rather the natural right) of having the claims preferred against their property and the accusations levelled at their lives, investigated in the language spoken by themselves, (an event which reason forbids our contemplating as very far distant,) will it be scarcely believed that the contrary practice was ever suffered to exist under a British Government. When that period shall have arrived, our past conduct in this instance will be contemplated with wonder. We shall appear to have been the most singular and most disinterested of all conquerors. "Had they" will by-standers say, "conducted judicial proceedings in a foreign tongue, why was not their own introduced? If the language of judicial proceedings were foreign to the people, why should it have been equally foreign to the judges? We can easily appreciate the motives of the Mussulman dynasty for depriving the people of this important privilege; the introduction of their own language flattered their national vanity, gratified their love of ease, and perhaps furnished a harvest for cupidity and oppression. But the British Government can have been actuated by none of these motives; they have gratified no national vanity by the introduction of their own language; they have no desire to oppress; and instead of consulting their own ease, they have laid on themselves a burden more ponderous than that lying on the natives; for their love of justice constrain them to cultivate the language of a kingdom with which they have scarcely any connection, to such a degree as not only to enter minutely into every complaint and accusation brought before them, but to watch therein over a body of native law-officers on whose incorruptibility they can have little reliance."

Had the conduct of the Mussulman conquerors of India been deemed a proper subject for imitation, we are ourselves decidedly of opinion, that the imitation ought to have been in favor of our own language. For thus acting we should have had reasons equally valid with those of the Mussulman dynasty. English was our language, and we, as well as they, wished to see things with our own eyes without the trouble of learning another language at the age of maturity; and as the Hindoos had been accustomed to the yoke, what greater injustice in their receiving a language from their European than from their Asiatic conquerors? Moreover, the advantage to us would have been great: had every accusation every deposition, every judicial fact and document, been brought into plain English, the judicial affairs of India would have appeared transparent to every British judge, whatever labor this might have cost the natives. And when it would have enabled those who dispense justice to the country, to understand every thing with the glance of the eye, there would have been at least one evident reason for the measure; the comfort and information of the rulers would have been secured, if the great bulk of the people would have remained, as they now are, perfectly ignorant of the process by which truth had been elicited. For the equity of their decisions, they must ever be constrained to confide implicitly in the judge as long as judicial proceedings are conducted in a foreign language; and indeed while the language is foreign to him, as well as themselves, a far greater degree of confidence is requisite. Too much praise cannot be given to those who from the beginning of our empire in India have so applied to this language as to render it almost their own;—every hour's labor given to it is a monument of their love of justice, and of their humane feeling toward those who repose in them alone for protection from that judicial tyranny to which they were subject under the Mussulman dynasty. Still this language can never have that attraction for a Briton which he finds in his mother tongue. Application thereto is still a duty to be performed, not an amusement to be enjoyed; to this language a man applies at the call of conscience and honor; in his mother tongue he indulges when completely wearied with official duties.

The consequence is, therefore, with the most vigorous minds, that ten times the matter will be examined in our native tongue with scarcely a consciousness of labor. This would enable a man to understand what comes before him in his vernacular tongue equally well with a tenth of the fatigue,—or with the same labor, ten times as well, from the ease and pleasure with which his eye ran through details in his vernacular tongue.

Nor would the introduction of our own tongue have been without its advantages to the Hindoos themselves. Among others would have been, that of delivering them wholly from the haughty domination of their Mussulman conquerors under which they had groaned for so many centuries. These the introduction of our tongue would have reduced precisely to a level with the nation they had so long oppressed. If the English had so far sanctioned their system as to conduct judicial business in a foreign language, still it would not have been theirs. But when the British, in addition to sanctioning their conduct, adopted the very language which the Mussulman dynasty had made the means of oppression for so many ages, it requires but little knowledge of human nature to see that this furnishes them with constant matter for exultation. To say that while the Hindoos were still the conquered nation, the Mussulmans, by apparently retaining the judicial proceedings in their own hands, seemed to retain all their former ground, is saying little; they now appeared to be exalted; they became the Teachers and Preceptors of their Rulers, on whose proficiency in the language of their dynasty it was theirs constantly to pronounce; nor would a Mussulman feel it a circumstance of trifling import to be able to say to those among whom he wished to magnify his own consequence, that "*Sahab spoke almost as well as himself.*" Whoever considers the effect of this on minds of a diminutive size, can easily realize the immense weight it must throw into the scale of Mussulmans, surrounded by Hindoos accustomed for ages to crouch beneath their yoke and tremble at the sound of their language. If it was said of the Romans after they had conquered Greece, that the introduction of its language and literature made Rome almost appear the conquered country; our retaining in all judicial proceedings the language introduced into them by the Mussulman dynasty, must suggest nearly the same idea to the minds of the poor Hindoos. While their real conquerors are only known to them by their solid weight of character and the restraint they quietly exercise over their former oppressors, the judicial language and legal apparatus of the Mussulman dynasty still fill the eye of the Hindoo, and still give to the Mahomedans and their religion a degree of factitious importance, of which both would have been stripped long ago, had our language in all judicial and public acts been substituted for theirs. This indeed hath hitherto kept both the language and the religion of their Rulers so completely out of view, that even now, with the greater part of our Indian fellow-subjects, it is perhaps matter of doubt whether we have either of our own.

But the substitution of our language for that of the Mussulman dynasty, would have been to the real advantage of India. The introduction of that language has done for India literally nothing; it has improved neither its morals, its philosophy, nor its literature. For Europe the introduction of a foreign language as an object of study, has done every thing; the cultivation of Latin and Greek has refined its taste, raised its literature, and elevated its mental habits to a height before unknown in the North, and scarcely in Greece itself. But after the cultivation of Persian literature for so many ages, the mental darkness of India is as dense and as palpable as ever. We cannot bring ourselves to believe that this would have been the case had the language of the Mussulman dynasty been exchanged for that of the English, though only for the short space of half a century. Many natives would have attempted to study it, and some would have succeeded to a considerable extent. They would have read some of our best authors, and have imbibed almost insensibly a certain portion of our ideas on a multitude of subjects,—and some would no doubt have made themselves acquainted with the Sacred Scriptures. Thus English, although it would never have become the language of possibly a single village, would have been read in Bengal to a considerable degree, the consequence of which, fraught as it is with the treasures of knowledge both human and divine, the reflecting mind may easily realize.

Should any one ask, "Would it have been just to impose such a load on the poor Hindoos, as to constrain them to clothe all those ideas on which their property and even their lives may depend, in an English dress, merely for the ease of their European judges?"—we should reply, that on this head, we ourselves have our doubts,—and for this reason we deem it still worse to impose or even to continue that load on them, when it neither brings ease to ourselves, nor mental profit to them. Every argument against making English the language of the courts of justice and of all public acts, militates with ten-fold force against the use of any other foreign language; and that Persian is still and ever will be a foreign language to at least ninety-nine out of a hundred among the Sixty Millions of our native subjects, few we apprehend will controvert. And we think still fewer will hold up the conduct of a Mussulman dynasty now overthrown by the God of providence, as a pattern for imitation to a Christian and a

British Government, to whom is consigned the guardian care of India in its stead.

The evil of this system is by no means to be measured by the degree of complaint made by the natives who suffer beneath it. They indeed seldom complain; and how much less likely are they then to complain of that which they have endured for so many ages! Besides, those who suffer from this system are not the persons likely to bring their complaints forward. To those from whom complaints would first come, it is no evil; but a source of profit. To the native officers of the courts of justice, to those employed in them, and to all who hope to succeed to these employments, the introduction of a language foreign to the people at large can be no matter of complaint; it must on the contrary increase their profits and their importance in proportion as it renders them necessary for the translation of the smallest document. It is rather to be expected that this state of things should be to them the constant subject of panegyric; as well as that every enquiry which bears the most distant aspect towards a change, should be completely discouraged. But these are not the men for whose relief courts of justice are designed. These are seldom oppressed by their countrymen; and were they, for them to bring their action, would be a high gratification, as it would be done in the language familiar to them, though not to the bulk of their countrymen. To these the courts of justice are precisely what they would be to all, were judicial proceedings conducted in the common tongue. It is for the protection of the great bulk of the people, however, that judicial courts are instituted; and by their feelings we ought to form our judgment of any judicial system. It is when we see them recoil at the idea of applying to a court of justice because they faint under the difficulty and expense of bringing a cause forward in what is to them a foreign tongue,—when we see them submit to innumerable injuries rather than prefer their complaint, that we see something of the evils attending such a system. Should it be said, "This at least represses a litigious spirit;" we are deprived even of this mitigating circumstance. The litigious are precisely those who will not be deterred by these difficulties; and thus the hardships of the system fall on the peaceable and the industrious,—on those whom it is the wish of the laws to protect from injury.

How injurious in its effects this system has ever been and continues to be at the present moment, we may easily realize by picturing to ourselves the state of things as they would be in Britain were all its judicial proceedings to be henceforth conducted in the French tongue. Who would not start back with horror at the prospect? Who would not tremble for justice were every witness to have his deposition received by the judge in French, and through the medium of officers to whom this was not the vernacular tongue? who would not recoil at the idea that all the comments and pleadings on this evidence were to be comprehended in all their force by the judge in French alone, to him also a foreign language? In this case, even if the judge could comprehend the whole with a glance, the bulk of the spectators would know little or nothing of the cause, nor even the poor prisoner till the sentence of the judge given in French and explained, announced to him as the issue of the trial which he had seen but not heard, the loss of his liberty—or even his life! How would every feeling in a British heart revolt at such a mode of conducting judicial proceedings? Even the hardship of depriving a poor prisoner of any knowledge how his cause was going on, till the irrevocable decision was announced, would shock every human mind.

Dreadful as this would be in England, however, there are circumstances in this country which augment its horrors. In the first instance French at the present moment is understood far better in England than Persian is in Bengal, Bahar, and Orissa, whatever it may be in the Upper Provinces. In England almost every girl at a school of any respectability can read French. Here, however, if we except those employed in the courts of justice whose business it is to make it their study, but whom we do not expect to furnish a very great crop of prisoners guilty of felony, or even of plaintiffs dispossessed of their rights, who, among the poor Natives, studies Persian so as to comprehend it when spoken, or even to understand it if read by themselves? Yet as has been already intimated, these form the great mass to whom the courts of justice are interesting, as their grand defence against oppression and fraud. Exclusive of judicial and public men, for one person who understands Persian among the Natives there are probably twenty in England who understand French. Yet who in Britain could reconcile himself to the thought that no trial respecting property or life should ever be again held in the English tongue?

But this might be done in Britain with unspeakably greater safety, than judicial proceedings can be conducted in a foreign tongue in British India. In probity and incorruptness will any one presume to compare the Native law-officers of India with the English Bar, which at the present moment exhibits such bright examples of courage, generosity, and incorruptible integrity? What are the officers of the Native Courts from the highest to the lowest? Does not every hope of obtaining justice center wholly in the presiding European Magistrates? Were these taken away, does any one suppose that the Native law-officers would be found changed in principle from what they were under the Mussulman dynasty? What should have created this change? from whence can it

have arisen? We cannot suppose such a mighty effect to have been produced without some adequate cause; but what cause can be at all named?—and we may ask what Native ever reckons on the incorruptibility of Native judicial officers? Surely, in impartiality, in the diligent investigation of truth, in faithfulness to their clients, these Native lawyers are not to be named with the members of the English bar. Yet with all this faithfulness to a client's interest, this diligence, this incorruptness of principle, would the conducting of judicial proceedings in French, the language of a kingdom parted from Britain only by a channel of seven leagues, and with which she has daily intercourse, be satisfactory to the people at large? To settle this point for ever respecting India, we have only to recollect this fact, and to combine therewith that golden rule which is the glory of our religion; "*Do unto others as ye would men should do unto you.*"

In the present state of things, when, by the happy termination of the late war, the British empire in India has, it may be presumed, attained to its full size, an opportunity seems afforded for its judicial affairs to assume that form which shall most fully provide for the happiness of the millions now confided to the care of Britain. It may now therefore become a proper subject for consideration, whether reason and justice sanction the continuance of judicial proceedings in a foreign language? and even if this be the case, whether sound policy and the best interests of the country plead for the continuance of them in a language equally foreign to the rulers themselves, and the people whose judicial concerns are transacted?

On this last question we do not hesitate to say, that if it be right to retain a foreign language in judicial proceedings and all public business, that language ought to be our own vernacular tongue, rather than that of the former dynasty. With the exception of those employed in the Native courts, Persian is as much a foreign language to the people of India as it was a century ago; and we have already shown that courts of justice are not instituted for the sake of the officers retained in them, but for the people at large. If it be reasonable therefore to employ any foreign language, it is more reasonable that we employ our own, than one foreign to us as well as to the people. If the Mussulman dynasty acted rightly in employing the Persian language, it is not equally right that we should retain it. It was the language in which they conversed with each other, and in which all their literature was contained. But this is not the case with us; Persian is not the language in which we converse with each other, nor is it the depository of our literature. To employ it therefore instead of our own is a peculiar hardship on the nation confided to our care. It has been already urged, that it does not place them on a level; it gives the Mussulman a very great superiority over the Hindoo, by continuing the language of his dynasty in all judicial proceedings; but surely under a paternal government, if they are not placed perfectly on a level, the oppressed are the nation to be exalted, rather than their former oppressors.

But to conduct judicial proceedings in a foreign language and that not our own, is an act of injustice to the Natives. If they are subjected to the labor and disadvantage of a foreign tongue, this when acquired ought to afford them the most unrestrained intercourse with their Rulers, and to lay open to them all their literary treasures. These advantages the study of Persian did confer on them under the Mussulman dynasty. As it was the vernacular tongue of their conquerors, a knowledge of it when acquired, enabled them to enjoy an unrestrained communication of feelings and ideas with the whole body of their Rulers; and although the Persian language has done so little towards dispelling the darkness of India, yet whatever it did possess of amusement, or of elegance, the conquered on gaining it, participated with the conquerors: it furnished them with one common subject of conversation, and enabled them to interchange ideas whenever circumstances brought them into contact. But of all this the Natives are now deprived. After having acquired Persian, a Native may, it is true, converse therein with those gentlemen whose official situation constrains them constantly to speak that language; yet even then, as it is not the vernacular tongue of either, there cannot be that spontaneous flow of ideas, which is inseparable from our own tongue. With those English gentlemen who are not accustomed to converse in that language, his labor and pains in acquiring it are useless; he cannot hold the least conversation with them, unless through some other medium.

But in making them acquainted with the Literature of their Rulers, Persian does nothing whatever. After having acquired by hard study the language in which all judicial proceedings and public business are conducted, the poor Native does not thereby gain the knowledge of one historical fact or one idea in common with his Rulers. This system thus imposes on them the labor of a whole life, without the prospect of acquiring a single new idea to enlarge their minds or cheer the mental gloom in which they are enveloped. This is the more to be regretted, because of the vast difference between the literature of the two dynasties. In the English language are now embodied the classic treasures of the ancients, the rich inventions of the moderns, the soundest ideas respecting human life, and the glories of the unseen world. To all this on the present system the Natives have a full right. If they are debarred the privilege of having the most interesting concerns of human

life conducted in their own language, that foreign tongue which they are constrained to learn for this purpose, ought to lay open to them in return all the knowledge possessed by the ruling dynasty. To continue the language of the former dynasty as the medium for public business, foreign as it still is to the Natives, and as it will be when ages more have passed away, exceedingly increases the severity of the system; they have to endure all its hardships, without reaping any of its advantages. If it be right therefore to constrain sixty millions of people to seek justice in a language which the great bulk of them will never understand, while wisdom requires that the present vestige of Mahometan tyranny should be no longer suffered to remain, equity demands that the foreign system retained, should at once lay open to the Natives all those treasures of knowledge which are contained in the language of their Rulers.—But while we are of opinion that if any foreign language be employed in judicial proceedings, it ought to be our own, the following reasons seem to require that judicial business be conducted in the common language of the people.

1. *This is the dictate of justice and equity, against which all other things ought to weigh nothing.* To conduct judicial affairs which may affect the property or even the life of any one individual among sixty millions, in a language foreign to them, is an unnatural state of things, never realized but by monarchs who sacrifice the happiness of their people to their own gratification. The Norman dynasty in England and the Mussulman in India, furnish almost the only examples found of this practice in the annals of history; but in the former instance the yoke was found intolerable, and was taken off by a monarch of the same dynasty to the unspeakable advantage of our native land. India then is the only nation of the earth now left in these circumstances. Even to publish laws in a language not understood by the great bulk of the people, is esteemed iniquitous; Caligula, for writing his edicts, which he was constrained to expose to public view, in a character so small that they could scarcely be read, incurred the imputation of inhumanity. This imputation, groundless as it may have been, sufficiently furnishes us with the general opinion on the subject of promulgating laws. But to publish laws in a language foreign to the people, is unspeakably less injurious than to conduct judicial proceedings therein. The true sense of the statute will soon be known in some way or other; and once known, it will serve for a thousand cases. Not so with judicial proceedings in a foreign language; if the truth has been exactly ascertained in ten thousand instances, the very next case will involve quite as much of doubt and uncertainty, as though it were the first ever examined. It is not the meaning of a law which is to be ascertained; but dubious facts, of which some affirm and others deny the existence. Surely, to detect falsehood and put malice to shame in any country, all that aid is needed which can be afforded by public investigation in the common language. How much more then in India where the character of the Natives is by no means high for probity.—Nor can the Natives avoid observing, that in the Supreme Court the English themselves enjoy this privilege. They see that when an Englishman is tried, the evidence is delivered, the counsel plead, and the judges declare their opinion of his guilt or innocence, in his vernacular tongue. The Natives on witnessing this, may naturally ask; "Why may not we enjoy the same privilege when we need it so much more? What! are the English law-officers more susceptible of corruption than ours, that they are constrained to give all their ideas and views of a case in the plainest English? But even if they were, the English possess an advantage we have not; they have twelve men whom they are obliged to make acquainted with their every idea on a case, and then leave them to decide whether the charge against the prisoner be true or false. If with all these advantages and their high character for incorruptness, they are still constrained to bring every thing into the language of the British prisoner,—how can our judicial proceedings be conducted safely in a foreign language, when the character of our Native law-officers is so different?"

2. We are convinced that *granting them this favor would rivet the British Government in the affections of their Indian subjects.* Our restoring to them this important privilege of which the Mussulman dynasty deprived them, must secure their affection: it would remove from them a most grievous badge of slavery, and in the most interesting concerns of life, confer on them a degree of happiness not enjoyed by their ancestors for many generations. The effect of this privilege on their minds could not be speedily lost: its continual recurrence would constrain them to reflect, that they owe it to the humane consideration of their British Rulers, and that the continuance of this and a multitude of other blessings, must depend on the stability of the British Government. This therefore, would attach them to their present Rulers in a degree scarcely to be described. Nothing is so gratifying to a people as the employment of their own language by their conquerors. Of this the Chinese afford a striking proof. They have undergone various revolutions, and different dynasties have filled the throne; but no attempt has ever been made to change the language of their judicial or public proceedings, nor that in which their laws are promulgated. The present Tartar dynasty have so far adopted the Chinese language as their own as to promulgate all their edicts therein, and the most magnificent dictionary of its language which China has ever seen, was compiled by

order of the third Emperor of this family. This attention to their language has imparted a stability to the throne, which their being Tartars, of a different religion, and some of them sufficiently weak, have not been able to shake; while an attempt to introduce a foreign language, would have made their throne totter to its very base.

3. *The conducting of judicial proceedings in the common language will be a clear gain annually to the cause of justice.* If the study of Persian have so completely counteracted the Native disposition, as to eradicate from the minds of those officers who have to bring the cause therein before the judge, all that propensity to take advantage of circumstances and render them a source of profit which is known to exist throughout the country; still when evidence taken from the mouth of witnesses must be laid before the judge in another language, the omission of a single word, or the use of a word either too strong or too weak, may give a complexion to a cause which shall make it appear totally different: it may constrain the most upright judge, as he can only judge according to the evidence before him, from a sense of justice, to decide on the cause differently from its real merits. Cases of this nature may occur where there is no want of probity in the translator. A degree of carelessness in selecting the words to express this evidence in another language, is quite sufficient; and who that knows the carelessness and apathy of the Native character, will wonder if this should be often the case where there is no intention to misrepresent? But in this case the most upright judge is constrained to give a wrong sentence even from principle. If we consider this and sum up the aggregate of the causes which may be thus mistaken in the Fifty-two Native Courts of this Presidency in one year only, can we deny that for judicial proceedings to be conducted in the language common to all parties, will be a clear gain to the cause of justice, even supposing all the Native law-officers to be as pure as the driven snow? But if they are like their countrymen with whom we have to transact business daily, and on whose representations we can never depend where a rupee is to be gained by misrepresentation, what must be the gain to justice throughout India, of conducting judicial business in the common language, as in England, which places detection within the power of all, and holds forth falsehood to public execration!

In addition to these, certain collateral advantages would follow, by no means to be despised. The conducting of judicial proceedings in the common language would exceedingly increase the esteem of the Natives for those gentlemen who preside in the Native Courts throughout India. That this is now great, follows of course, from the character they so justly sustain. But at present they are far from reaping all those advantages to which their knowledge, their probity, and their high sense of character entitle them. If they are now esteemed, they would then be revered; and the confidence reposed in them by the Natives would be almost unbounded. On the present system they are deprived of the most valuable opportunities of making themselves intimately acquainted with the concerns of the Natives. They transact business officially with them several hours daily; but it is in a language understood by not one in twenty in their district, and, often through a circle who have a kind of interest in monopolizing their attention,—or in persuading the Natives of the district that such is the case. Hence, justly as they esteem the British judge, the bulk of the Natives seldom see him but at a distance, nor converse with him but through those around him. The effect of this, in keeping him from an intimate knowledge of their concerns, must be sufficiently obvious. Although the College of Fort William has appointed that every gentleman shall be proficient in two languages, one beside Persian; yet as this is the language of business in which five or six hours daily must be employed, though little known beyond the official circle except by a few rich Mussulmans who pride themselves in the language as theirs, the time thus spent is almost so much clear loss to the common language of the people, particularly in Bengal. The strength and spirits being exhausted every day in the official language, it cannot be expected that in this ungenial clime, European gentlemen, fatigued with their daily duties, should as an amusement turn to a tongue, neither necessary as an official nor respectable as a learned language. In these circumstances that a man should make himself thoroughly ready in reading and conversing therein, merely that he may talk freely with Natives, is certainly too much to be expected. It is much more reasonable to suppose, that the rudiments of it which were acquired at College, will for want of use be gradually effaced from the memory.

Let the case be reversed; let the common language become official, and every thing assumes a new aspect. Five or six hours' converse daily therein cannot fail to render it familiar, while the varieties of it which come before the court, will make an English judge acquainted with its every idiom; and the neatness with which he hears it spoken by the law-officers, with his superior knowledge of grammar and style, will enable him to speak it with perfect accuracy. The effect of this on them would be astonishing. As the evidence, the pleadings, and the final sentence would be in the language understood by all, (as in the courts of justice at home,) the Natives who in things involving life and property, possess more than Attic curiosity, would crowd the courts of justice, watch with anxious eye every step of the cause, and hang on the lips of the judge, while he, in accents familiar to them,

poured forth those dictates of equity, those views of justice, and that sound knowledge of things, in which he would be necessarily so much their superior. This would so raise him in the esteem of the people, that they would almost regard him as something beyond a man. There is scarcely any thing more fascinating to the Native than the equitable and wise administration of justice; of this they feel the value far beyond Europeans, possibly from the weakness of their own minds, and the consciousness of what it would cost them thus to act. The British judge, therefore, in whose every judicial observation a love of equity so evidently shone, would be revered by them. Other circumstances would increase this feeling; the knowledge that he could and would converse with a Native in his own dialect without any intervening medium, would encourage respectable Natives to bring to him their distresses, perhaps important for him to know, and would make him regarded as the parental friend of all around: indeed the mere knowledge of this fact in a district where a multitude of inferior Native magistrates must be employed, would operate in the most salutary manner. Farther, his hearing daily the common language spoken in court by such a variety of persons, would so familiarize it to him, that he could scarcely go out either for business or pleasure, without understanding every thing he heard around him; and the insight this would give him, without effort, into all the concerns of the people whose legal guardian he stood forth, could not fail to be very great. The value of a Hundred European gentlemen stationed throughout the country, possessing such an intimate acquaintance with the concerns of the Natives and enjoying their confidence in so peculiar a degree, can scarcely be calculated, particularly in seasons of distress and calamity.

The other collateral advantage is, that this would tend to improve and enlighten the country in a superior degree. Of every advance of this nature the common language must be the medium; but how this can be when it is cultivated neither in the services of religion, at the bar, nor in the public business of government, it is difficult to say. Yet this at present is the case with the Bengalee language in particular. In their religious services the Brahmuns affect to despise it, although the greater part of them are quite unable to understand the Sungskrita sentences they daily repeat in their religious formulas; and when it is excluded also from the courts of justice, what inducement can there be to cultivate it? Yet it begins to be cultivated, notwithstanding every disadvantage, and the Native Press is daily becoming more and more interesting. But what an impulse would be given to its cultivation were it made the language of all the Native Courts in Bengal, may be inferred from the cultivation given the English language since it has been made the only vehicle for the administration of justice. Let it only be known that instead of Persian, a thorough and classic knowledge of Bengalee is the indispensable qualification for every judicial situation in the Native Courts throughout Bengal, and that learning and probity alone will avail, whether found in a Hindoo, a Mahometan, or a Christian, and a new scene will instantly appear. Not only will all who obtain judicial situations be thus qualified: but a multitude more will qualify themselves from a distant hope of obtaining them. If we estimate the various courts of justice as employing a Thousand persons, we may be assured that Five Thousand will study with the hope of being employed. Nor will the unsuccessful candidates be at liberty to intermit the classic study of the language; their being always in expectation of vacancies will constantly stir them up to exertion. Thus in addition to those formed by other means, will five thousand accurate Bengalee scholars be created by this step alone. This would also refine the language: its being brought into the judicial courts and made the language of record, must secure its superior cultivation, and European Gentlemen would bring thereto all their taste and grammatical knowledge, which must have its re-action on the Natives, the consequence of which would be, that the language would be rendered a luminous medium of communicating ideas to nearly twenty millions of people. Important works constantly translated into this language, would enlighten the minds of the people beyond any other course. While we acknowledge that the introduction of English would do much, the cultivation of their own tongue would do unspeakably more. Compared with the bulk of the population, only a few would so learn the language as to read an English author with profit, and when they died, their knowledge would die with them; others must go over the same ground to to understand English equally well. The greatest portion of good must ever be done through the medium of the Native language. But while its being still neglected would naturally leave it in its present rude state, the introduction of English would so deteriorate it as to render it almost unintelligible.

Indeed were English understood by the Natives as well as Bengalee, as a means of imbibing ideas this would at present be scarcely desirable. While the English language is fraught with every thing excellent, it also contains much that would be of little service to the Native mind in its present uninformed state. There are many things even in the English papers of the day, which a Hindoo in his present state of mind could not read with profit. That knowledge of English therefore, which would throw open to a Native every thing printed in Eng-

Monday, October 8, 1821.

—415—

land from week to week and from month to month, could it by miracle be imparted to a million within a month, we should hesitate to pronounce a real advantage to the country. Some previous cultivation of mind seems quite necessary to enable a Hindoo to form a just idea of the various writings which might come before him. In cultivating the Native language their present circumstances might be met. No real friend to India would translate a work for general perusal which he thought might mislead or misinform their minds; and a judicious selection would put them in possession of the works best suited to their state. These, when once printed, must become accessible to millions; and such valuable information would lead to solid mental improvement, which must naturally increase the desire for information: and thus the country might be gradually filled with light. While this could never impart to them either the physical strength or the vigor of mind possessed by Europeans, it would rescue them from ten thousand destructive errors, and place them among the happiest of mankind.

To this course a host of objections may possibly arise. We imagine however, that the chief will be found to be these three. "It would discourage the study of the Persian language,—impede the despatch of judicial business,—and subject a British judge to the labor of acquiring two or three languages on his removal from one part of the country to another." The first of these objections we presume, has little foundation. For diplomatic purposes in all those Native courts where Persian is the grand medium of intercourse, this language will still be cultivated, as French is in Europe; and as an elegant language it will be cultivated by the man of taste. Should any one object, this would do little towards keeping up the study of Persian; we should reply, that if the cultivation of a language for taste and usefulness be not sufficient to keep it alive, it ought to die. To us it does seem a little hard to subject the lives or the property of sixty millions of men to perpetual danger, as a kind of school exercise to keep up the knowledge of a foreign language. If judicial business must be perverted from its original design to serve mere philological purposes, the Persian does not seem the best language which could be chosen. The introduction of Chinese as the language of judicial business would much more effectually promote activity of mind, while it possesses advantages of which Persian is destitute: it is far more ancient; it contains a number of the most ancient writings in the world, and a most admirable code of laws, which forms the medium of administering justice to at least a hundred and fifty millions of people. Besides it is not the language of a very distant nation. Sir William Jones remarked long ago that the Chinese were little more than two hundred leagues distant from the capital of our Eastern empire; and in some future time circumstances may possibly bring us and them much more nearly into contact. But if this be thought objectionable, and jurisprudence must still be transformed into a means of encouraging oriental philology, no step would realize this object more effectually than the introduction of Sanskrita as the judicial language of India. This indeed seems to come recommended with peculiar force: while it would effectually secure philological exertion in the Native law-officers, as well as in the British judges, it is the learned language of India, understood and venerated in every province, the origin of all its dialects, and the language of the greater part of its laws; and surely "the language of the gods" must be acceptable to their votaries. If then the Native administration of justice must be rendered subservient to philology, it may certainly be applied to nobler objects than the cultivation of the Persian language. But if it appear absurd to sacrifice the judicial affairs of sixty millions to the cultivation of any language, as it would certainly be deemed absurd at home to make French or Latin the languages of our courts of justice with this view, we must satisfy ourselves with securing one object at once, content, like the courts in England, with securing the best administration of justice, though in doing it, no language should be cultivated beside the common tongue. It is seldom that more than one important object can be secured by one operation. That course which aims at two, seldom effectually promotes either.

"But" say others, "to conduct judicial proceedings in the common language instead of Persian, would impede business in a very high degree." Were this the case to a certain extent; still as in judicial matters there is a possibility of making greater haste than good speed, this might not be a real evil. "Once well done is twice done," is not wholly inapplicable to judicial affairs. We cannot but think, however, that in this there must be some mistake. Can the examination of a cause in two languages be ultimately done quicker than in one of them? The facts must be obtained from the witnesses in their own language, before they can be given in Persian; and surely their being understood at once by the judge and the court, without an intervening translation, could not in its own nature delay business. "But" say some, "it actually does: for we have tried both ways, and we have despatched three causes in Persian in the time occupied by only two in Bengalee." That is, you employed Bengalee scholars perfectly new to judicial proceedings, and these men occupied one-third more of time, than those who in Persian had been accustomed to legal details possibly for thirty years." "Nay" says another; "you are quite mistaken; we employed these very men who had been accustomed to law proceedings in Persian, to make the experiment in Bengalee." If this were the case, the matter explains

itself. These men occupied one-third more of time in reading documents in Bengalee to which they had been so little accustomed and in which they perhaps felt no wish to expedite business, than in Persian to which they had been accustomed all their lives. We cannot think that in either case this could be a fair trial. Let men be equally well instructed in Bengalee, and accustomed to legal details an equal length of time, and we cannot but believe that the conducting of causes in one language must ultimately expedite business, and that in no unimportant degree.

We come to a more serious objection. "Different languages are spoken in different parts of the British dominions in India; hence a gentleman in the judicial line removed from one part to another, might in the course of twenty years possibly have two or even three dialects to learn." That there are different languages spoken in the British dominions, is matter for sincere satisfaction, not merely because it marks the goodness of Divine providence to the British nation, which we regard as an extension of blessing to the country;—but because it contributes to the stability and tranquillity of the British empire in India. These languages are so many walls of brass to insulate these various nations from each other. This was formerly the case in the British isles long after they became subject to the same monarch; an inhabitant of the north side of the Tweed had no national feeling in common with a Southren; nor was an inhabitant of Ireland capable of being affected with the same feelings which inflamed the breast of a North or a South Briton. In the affair of Rannamade we know not that a single Irish baron was engaged, although this was the third reign since Ireland had become subject to England. This argued no want of patriotism: it only demonstrated that a separate province and language completely insulate national feelings. In the same manner a native of Bengal has few feelings in common with a Native of Orissa; and a Native of Hindoost'han few with a Native of Bengal. By a different language feelings are stopped in the midway and completely quenched. This insures public peace beyond what many would conceive: in the hands of a wise and paternal government the preservation of tranquillity throughout the British empire in India in its present extended state, is thus rendered far more easy than as though it included Bengal alone. In the latter case fourteen or sixteen millions speaking one language might haply receive one impulse, however foolish and misguided, without a counterpoise being any where possessed. But in the present state, were Orissa to become a prey to anarchy, Bengal on the one side and the Deccan on the other, speaking different languages, would form an instant counterpoise; were Bengal, there would be the Deccan on the one side and the provinces of Hindoost'han on the other; and thus with the rest of the British empire in India. We may therefore cheerfully submit to the labor of acquiring these separate languages, in consideration of the advantage it affords for the preservation of peace and public tranquillity. Till the minds of the Natives shall have become more enlightened and humanized, no wise man would wish to see these useful barriers abolished.

The difficulty of learning two or even three of these dialects, however, is far less than is generally imagined. Let two of these languages be appointed in College as the term of qualification, of which let one be the Bengalee, or the Orissa if the person's views be toward that country. These two languages, through the length and variety of their grammatical terminations, are the hardest of acquisition; but when one of these is acquired, as they contain at least nine out of ten of the words used in the other dialects spoken in this Presidency, there would be no difficulty in acquiring any other; a little application to its peculiar grammatical terminations and the daily practice of the court would render it familiar; and acquainted previously with nine-tenths of the words, a gentleman would then be in possession of the language. As Bengal contains the greatest number of judicial situations, a greater number of gentlemen probably begin their judicial career in Bengal than in Hindoost'han: and to any man thoroughly versed in Bengalee, a little study combined with the practice daily afforded by his official duties, would enable him to understand every thing he heard in Hindoe, as well as to deliver his own ideas therein. But if he studied Hindoe in the College as well as Bengalee, he would find little difficulty in that language; his proficiency in the one would be a real proficiency in the other. To conclude, if the restoring of this privilege to the Natives of India would be productive of the advantages already mentioned, of which we think the wise and candid will be convinced in proportion as they reflect on the subject, we feel assured that there are very few of our countrymen thoroughly conversant with any one of the common languages of the country, who would in this case regret the labor of acquiring a kindred dialect, when their official duties would so materially assist them therein. Nor would it be necessary that any sudden alteration should be made. The language of judicial proceedings might at first be rendered optional to the British judge; and we are mistaken if even this would not so powerfully operate on the good sense of our countrymen, as to secure the ultimate abolition of the present system. When such an extensive benefit then can be conferred on our Indian fellow-subjects, in such an inexpensive way, a benefit which comes home to every bosom, we trust that this subject will no longer be suffered to sleep; but that mind far more powerful will come forth and examine it in the fullest manner.

Sonnet.

*From the Unpublished Poems of Lieutenant A. Wright, of the Bengal Army, now in the Press.**

Sorrow hath shed untimely blight, on one
Of Nature's loveliest creations—She
Whose pure and gentle breast, seemed formed to be
The dwelling-place of bliss, now stands alone,
In desolate sadness, mourning pleasures gone,
And happiness departed—like a tree
Whose leaves and blossoms, blasted timelessly,
Die on the desert, torn and tempest-strewn.
Dearer to me than life! oh, could the prayer,
Of one who mourns for thee, avail on high,
Soon should thy heart unmingled rapture share;
Through life, the flame of love should sparkle nigh;
Illumine with its light the gloom of care,
And brightly blaze, o'er pleasure's cloudless sky.

* See the Notice of NORMAN, a Tale, with other Poems, among the Advertisements of the day.

Frontier Provinces.

To the Editor of the Calcutta Journal.

SIR,

As the following Plan, once suggested by the late Lieutenant Colonel Paris Bradshaw, was not, I believe, ever brought to the notice of Government, I beg (through the medium of your widely-circulated JOURNAL,) to offer it to the notice of those best able to appreciate its merits.

Let a certain proportion of the Police Thannadars and Durogahs on our Frontier Provinces, be composed of men from the Invalid Establishment of our Native Army.

And if any real objection exists to such an arrangement, let every Provincial Battalion have two or more Companies composed of Veteran Native Soldiers, who could be passed on to the Invalids when completely worn out, and no longer fit even for Garrison duty.

In the first instance, it might perhaps be expedient to draft at least one hundred of the most enfeebled Sepoys from every Corps of the Line into the Provincials; and after that, about twenty annually.

In order to insure that none but those totally unfit for the active duties of the Line should ever be sent, they might be passed by Committees, comprised of Commanders and Officers of Corps, with their Staff, a Captain and Subaltern; with the Medical Officer in charge of the Corps.

Either of these Plans would reduce the expences of the present Invalid Establishment to a mere nothing; at the same time, that the Army of the Line, would then be entirely composed of young and active men in every respect duly qualified for the most arduous duties they could ever be called upon to perform.

If either of these arrangements should meet the approbation of any Officer whose situation and opinion would give weight to his recommendation, he cannot I think do better than to give his Patronage to them; as there cannot be a doubt but our Native Army would be very considerably improved by the latter Plan, whilst the former is calculated at once to relieve the State from a heavy burthen, and to improve our present Police Establishment.

W—

Birth.

On the 5th instant, at the house of her father, Mr. A. ROWLAND, Mrs. J. VANDERBERG, of a Son.

Nautical Notices.

Madras, September 18, 1821.—The ship WILLIAM MILES, Captain Beadle from England the 20th April last, from the Isle of France, whence she sailed the 15th of August, arrived in the Roads last night.

Passengers for Madras.—Miss C. S. Gascoigne; Messrs. G. Affleck, J. Brell, Briggs, and Robinson.

For Calcutta.—Mrs. Richardson; Mrs. A. Morrison; Misses C. Richardson; Mrs. Siddons; E. Slater; A. Kennedy; Lieut. Col. Richardson; G. J. Siddons, Esq.; Mr. C. H. Hoppner; Mr. G. T. Bayley; Captain H. Weston; Captain Hyatt; Mr. R. B. Francis, Asst. Surgeon; Mr. J. Ianis, Cadet; Mr. Geneve, from Mauritius; Master J. Morrison.

We have also the pleasure of announcing the arrival of the WOODFORD, Captain Chapman, from England the 1st of June, having on board The honorable Sir Charles Grey, Puisne Judge of the Supreme Court of Judicature at this Presidency; Also Lady Grey; Mrs. Tolfrey; Misses H. and M. Hare; Dr. J. Hare; G. H. Dacre, Esq.; Captain T. Fair.—For Bengal: Mrs. Lindsay; P. Y. Lindsay, Esq.; H. Lushington, Esq. Bengal Civil Service, and Master Lindsay.—*Madras Genl. Gaz.*

LETTER III.

Remarks on Carnaticus.

SIR,

To the Editor of the Calcutta Journal.

The more narrowly I examine the Letter of CARNATICUS, the more am I convinced, that it is the production of some young Officer, who, presuming upon his distance from this country, deals roundly in broad assertions, in the vain hope, from that circumstance alone, that they may remain unexposed and unrefuted.

CARNATICUS sets out by proclaiming who he is: he says "I am a Madras Officer in the Company's Army; have served much with Native Troops, indeed more so than with Europeans: with Bengal Sepoys, Malay Troops, King's and Company's European Troops, and have seen active service with the whole of the above separately and collectively, on various and pressing occasions during the late Campaign in India." If Malay Troops were actively employed during the late Campaign, I can only say, this is the first, and only time it has been brought to my notice: indeed, I am inclined to think that not a single Malay was employed throughout the Campaign, and rather attribute the mention of these Troops to inadvertency on the part of CARNATICUS. He perhaps merely means, that he has been on active service with Malay Troops: it would have been satisfactory had he told us when and where: it may possibly have been at Ceylon. If so, I must concede the point to him. I have no hesitation in affirming that it cannot have been to the Eastward, for these Troops were never so employed there. It would further have added considerably to the credibility of his Statement, had CARNATICUS distinctly particularised the occasions on which he saw active service with Bengal Sepoys. CARNATICUS surely cannot have been present at the assault of Cornelis, or he would not in candour have kept back the honourable mention made by the Commander in Chief, of the distinguished gallantry of the Bengal Volunteers engaged in that brilliant affair.

CARNATICUS finds fault with his Commentator for speaking in general terms, and in the very same paragraph falls into a similar error, or perhaps one of a grosser nature; ignorance of his subject, *e. g.* he says, "On the Bengal side, peruse in the earlier stages, the high encomiums bestowed upon the Company's Troops (for at that time there were few King's Corps in India,) by Lord Clive, and the battles of Plassey and Laswarree."—This is either a rare specimen of generalizing and lumping up, or the effect of consummate ignorance; if indeed we are to judge from the context of the passage just quoted, it must be the latter; for I will defy any person unacquainted with the History of Modern India, to read the passage without inferring from it that the battles of Plassey and Laswarree were both fought by Lord Clive!*

October 5, 1821.

CENTURION.

* The Battle of Plassey was fought by Lord Clive, in 1757; and that of Laswarree by Lord Lake, on the 1st of November, 1803.

Naval Monument to Lord Melville.

Times, May 5, 1821.

We know not whether the present is the first occasion on which we have ever heard of the subject which we are now going to lay before the public, or whether it has, like some others, we fear, of greater moment, slipped from our memory. We will, however, endeavour to guard ourselves against the danger of a future lapse, by at once placing the facts and our opinion respecting them upon record. The first stone, we find, has been laid of a pillar, to be called a Naval Monument, to the memory of the late celebrated HENRY DUNDAS, Lord Viscount MELVILLE. St. Andrew's-square (in the city of Edinburgh we suppose) is to be the site of this notable structure, and the seamen and marines of the British navy are to contribute to the expense. We here insert a copy of the recent proceedings in this affair, and shall subjoin our remarks:—

"Saturday, April 28, being the anniversary of the birthday of the late Lord Viscount Melville, the foundation of the monument erecting to his memory in the centre of St. Andrew's-square, by the Royal Navy and Marines of the United Empire, was laid by Admiral Sir David Milne, K. C. B. and Admiral Otway, Commander-in-Chief, assisted by other naval officers. An appropriate prayer was offered up on the occasion by the very Rev. Principal Baird. This structure is to be an exact representation of the celebrated Column of Trajan at Rome, and must consequently prove highly ornamental to the splendid metropolis of Scotland.

The current coins of the realm, an almanac, and several newspapers, were deposited in a crystal bottle, hermetically sealed; as also the following inscription, engraved on a plate of gold:

IN MEMORIAM
Viri reipublice gerendæ peritissimi,
HENRICI DUNDAS,
Qui, regnante Georgio Tertio,
TEMPORIBUS GLORIA HAUD MINUS QUAM PERICULO PLENIS,
Præfectus Navalis æsarii,
Regi a Secretis,
Septemviro Navium Principes,
Classibus Britannicis bene feliciterque consulendo,
"OPTIMUS NAUTARUM AMICUS;"
In perpetuum haberi meruit,
Hæc Columna collocata est,
Sociis Navalibus et Classariis Sumptum
Sponte conferentibus, ut
Admirantis et grati animi extaret ad posteror
MONUMENTUM.
ANNO DOMINI MDCCCXI GEORGI QUARTI REGNANTIS II.

On the Inverse side:

TO
the memory of
that illustrious Statesman
HENRY DUNDAS,
LORD VISCOUNT MELVILLE,

During the eventful and glorious reign of George the III.
successively Treasurer of the Navy, one of the
Principal Secretaries of State, and
First Lord of the Admiralty,
of the United Kingdom of Great Britain and Ireland,
Whose unwearied and successful exertions to promote the
interests of the British Navy, have justly entitled
him to be ever esteemed

THE SEAMAN'S BEST FRIEND:

This Monumental Column is erected
by the

Voluntary Contributions of the Officers, Petty Officers,
Seamen, and Marines of the Royal Navy
of these United Kingdoms,
as a Testimonial of Admiration and Gratitude,
in the year of our Lord 1821,
and in the second year of the reign of
HIS MAJESTY KING GEORGE IV.

There was deposited at the same time, and in the same manner, a plate of silver, with the names of the Committee of Management inscribed upon it.

The Naval Committee, and several of the friends and admirers of the late Lord Melville, dined together at the Waterloo Tavern in the evening, Admiral Otway, Commander-in-Chief, in the chair."—*Caledonian Mercury.*

Now we must first guard ourselves against the suspicion of being thought capable of treating with mockery any well-meant expression of regard, any testimony of respect or affection, which may proceed from the son or other surviving relatives of the late Lord MELVILLE. Let those persons revere the memory and regret the loss of the deceased as much as they please. If their grief be disinterested, it has our veneration: but it is the affectation of making the public sympathize in their feelings, and of erecting a kind of national monument to such a man, which we ridicule. Why, we ask, deposit newspapers, with the current coins of the realm, under the pillar? Newspapers are unofficial productions. Would not it have been better to substitute in their place a copy of the 10th Report of the Commissioners of Naval Inquiry, if it had been intended to tell an admiring posterity, upon authentic, substantial, authoritative documents, what were the merits of the man in whose honour the pillar was raised? "Hermetically sealed," indeed!

Till that report is "hermetically sealed" there can be no need to seek for other methods of diffusing Lord MELVILLE's fame among his countrymen, either present or future. As to the *bassi reliev* which are to adorn the pillar, instead of the battles and triumphs which appear on TRAJAN's column, it would be proper to substitute the Trial and triumph of Westminster Hall. There was also the celebrated voyage to the other side the Channel when the catamaran exploit was in agitation. His Lordship indeed then "went and saw," but he came away before the sea was blown upon the dry land, and the enemies' fleet fell flat on the church of Notre Dame at Paris. Yet still, the feat being of his Lordship's planning and approving, and being also, in the happy Latinity of the inscription, "FULL OF GLORY AND DANGER," it may well deserve a place upon his column. Thus far, then, as to the inscription and sculpture. The funds out of which both are to be supplied demand a word. In the brighter era of the Roman republic, it was forbidden to erect statues to the governors of provinces till they had retired from office. The present Lord MELVILLE occupies his father's station: let him retire from office, and then we shall see what marine or sailor will subscribe to this column, what admiral will lay a stone, what principal will read a prayer, what booby will attempt to turn intelligible English into barbarous Latin.

The Constitutional Association.

COURT OF KING'S BENCH, THURSDAY, MAY 17, 1821.

THE KING v. JOHN THELWALL, Esq.

MR. BLACKBURNE moved for a rule to shew cause why Mr. Charles Murray, the Solicitor for prosecution in this case, should not deliver to the defendant a list in writing of the names of the prosecutors of this indictment. It was an indictment found at the last Quarter Sessions for the City of Westminster, and had been removed into this Court by *certiorari*. On the back of the indictment there appeared to be the names of two persons, one Horatio Orton, and the other, George Stevens, but both of these persons having been applied to, said they were not the prosecutors. One of their Lordships (Mr. Justice Holroyd) would probably recollect, that when the defendant was before his Lordship at his chambers, to give bail, Mr. Charles Murray appeared as Solicitor for the prosecution, and that the Gentleman who acted as Solicitor for the defendant, asked him who was the prosecutor of the indictment, but that he refused to give the information. Upon which the solicitor for the defendant went to the office of a society, which had lately established itself in Bridge-street, Blackfriars, styling itself "The Constitutional Association," and being introduced to — Sharpe, Esq. by the Secretary, asked for Horatio Orton, one of the witnesses named on the back of the Bill? — Mr. Sharpe told him that Horatio Orton was a clerk in that office, and asked if the solicitor knew any thing of him? The latter showed Mr. Sharpe the copy of the indictment which he had received, and requested to know if Horatio Orton was the prosecutor? Mr. Sharpe said that he was not; that he had nothing to do what it; that he was simply a clerk to the Association, and was merely a witness on the back of the Bill, in consequence of having bought a copy of the publication which was laid to be a libel in the indictment. Inquiry was then made for George Stevens, the other witness, a youth of 18 or 19, and being found at the Stamp Office, he said he knew nothing of the prosecution, more than that he was taken before the Grand Jury, to prove that Mr. Thelwall's name was registered at the Stamp Office, as the owner of the Paper in question.

THE CHIEF JUSTICE.—Is there an instance of the Court directing the names of prosecutors to be given up in this manner?

MR. BLACKBURNE said, he knew of no instance except one, and that was the case of the proceedings against Miss Maria Glenn. There an indictment of perjury having been preferred against the defendant, the prosecutors discovered some error or informality in the proceedings, and being desirous of preferring another indictment, the Court ordered the names of the prosecutors to be given up, in order that they might

be compelled to pay the costs of the first indictment, before they could be allowed to substitute another.

The CHIEF JUSTICE—There the Court would not allow a second indictment to be preferred, according to the ordinary practice, without paying the costs of the first. With that view it was necessary to know who the prosecutor was, in order that there should be a person forthcoming, on whom such an order could be made.

Mr. Justice BAYLEY—The prosecutor there came to ask a favour of the Court.

Mr. BLACKBURN said that that might have been the case; but it was of the utmost importance to the defendant in this case to know who the real prosecutor was, in order that he might be answerable for costs in the event of costs becoming due.

The CHIEF JUSTICE said, that if the season arrived when the defendant became entitled to costs, it would be then time enough for him to apply to the Court upon the subject of who was liable.

Mr. BLACKBURN said that if his client was not now told who would be liable for costs, he would never be told. But there was another and a much stronger reason why the prosecutors should be brought into the light—why they should emerge from their mysterious obscurity, namely, that the defendant might know who was his jury on the trial of the supposed offence with which he stood charged. If he did not know who his prosecutors were, it might very probably happen that some of them would sit on the Jury impanelled to try the indictment. How, then, could he exercise his right of challenge to advantage? What was to prevent the members of this extraordinary Association from sitting on the Jury? It was stated, in the affidavits, that the Association was composed of several hundreds of persons, all residing in Middlesex; and, for aught the defendant could know, the whole Jury might be composed of these loyal personages; and, in such hands, what chance would he have of a fair trial? It was impossible, then, for him, fairly to go to trial, unless he knew who his prosecutors were. He might be tried by a Jury of his prosecutors, in violation of every principle of common justice. By the statute 3 Geo II. c. 25. s. 8., which applied to Common Juries, a panel was directed to be made with the names and additions of the Jurors summoned, in order that the parties concerned might have timely notice of the sort of Jury summoned to serve, so that they might make their challenges if there was a cause. It would be quite impossible in this case to challenge, for how could the defendant know whether or not the Jury was composed of Members of this Association, unless he were informed who were the prosecutors of the indictment.

Mr. Justice BAYLEY—May you not put the question, when a Jurymen comes to be sworn, whether he is not one of the prosecutors?

Mr. BLACKBURN said, he was going to put another very possible case. It might happen that the Association who had instituted this proceeding, would choose to have a special jury to try the indictment, and when the defendant went before the Master of the Crown Office to strike the Jury, and objected that certain persons on the panel were Members of this Association, the Master would tell him, that he, the Master, could not look beyond the indictment, and not seeing who the prosecutors were on the face of it, he would very naturally say, he could not entertain such an objection. No redress then could be had there; and when the Jury came to the book to be sworn, the defendant would have no right to ask them a single question, as the Court had very lately held in the *King v. Cartwright*, unless he (Mr. B.) was very much mistaken.

Mr. Justice BAYLEY—You cannot examine a special jurymen upon any point that goes to his discredit.

Mr. BLACKBURN—If it is suggested that it is a ground of discredit to accuse a Gentleman of being connected with such an Association, undoubtedly the defendant ought not to put a question conveying such an imputation.

Mr. Justice BAYLEY—I don't say it is; but if the Jury are compelled to attend in obedience to their summonses, in all human probability every gentleman who happened to be a Member of the Association would say—"I have attended in obedience to the summons I have received, but, as I am one of the prosecutors, I beg to be excused from serving on the jury." That would be the duty of every gentleman in point of decorum, who happened to be so situated.

Mr. BLACKBURN—No doubt, and very likely every gentleman would so act, who had a spark of proper feeling.

Mr. Justice BAYLEY—You have a right to put the question to know whether the jurymen is one of the prosecutors.

Mr. BLACKBURN—But there is another very strong reason why the defendant should be informed who his prosecutors are. This may turn out to be a malicious prosecution, and who is the defendant to sue if that should appear to be the case? There is no ostensible prosecutor who will be answerable to him in that event, for the injury he may have sustained. It will be then too late to inquire who are the prosecutors, and probably they would never be heard of. Surely the Court will not

suffer such a case as this to come before the Court under such circumstances, they will not permit persons to assume the office of prosecutors, without its responsibility. We don't know who these associates are, and I claim it as a matter of right, for the several reasons I have urged, that this Gentleman may not be subjected to the invisible agency of a Society who seem disposed to shrink from the responsibility of that office they have so voluntarily assumed.

Mr. Justice BAYLEY—Do your affidavits suggest any circumstances that may induce a suspicion that this can be a malicious prosecution?

Mr. BLACKBURN—No, my Lord, I don't say they do; but I state this as an argument, coupled with others, to shew the reasonableness of this application.

Mr. Justice BAYLEY—Then it would come to this (if your argument could prevail) that in every case a defendant would be entitled to come to this Court, and ask who his prosecutors are, with a view to commence proceedings against them, because it is possible that the prosecution might ultimately turn out to be malicious. Should you not state some special ground, or bring before the Court some circumstances that might induce a belief that the prosecution in this case has been instituted from malicious motives, before we could accede to your application?

Mr. BLACKBURN—I am not laying that as a special ground; but as a possible case, which I trust will induce your Lordships to acquiesce in this motion. I care not whether the prosecution be malicious or not. All I say is, that it is but reasonable, that the defendant should know who his prosecutors are—1st. with a view to costs.—2d. With a view to a fair trial; and 3d. with a view to that redress which he may think proper to seek, should the prosecution turn out to be malicious.

Mr. Justice BAYLEY—Have you pleaded?

Mr. BLACKBURN—Yes, my Lord, and we have had notice of trial.

The CHIEF JUSTICE—Your affidavit suggests your belief that the prosecution is instituted by that Association.

Mr. BLACKBURN—Yes, my Lord, and states the reasons.

The CHIEF JUSTICE—I only wanted to know the fact.

After deliberating with his Learned Brethren for several minutes

The CHIEF JUSTICE said, the application which has been made is so perfectly novel, that we cannot agree to it; for if we were to agree to it, it might be introducing a most dangerous precedent. What has occurred to us is this; as it is of importance to the defendant, with a view to the nomination or reduction of a Special Jury, that he should know whether any of the persons concerned in the prosecution are named among the 24 (if there shall be a rule for a Special Jury,) it may be competent for him, on those affidavits, to know the names of such of the Members of this Association as are qualified to serve as Special Jurymen; and for that purpose the Freeholders' Book shall be delivered to you, from which the Jury shall be reduced. If the case is tried by a Common Jury, there is no objection to asking every person called on the Jury, in obedience to the summons which requires his attendance, whether he is a Member of the Association. It will not at all disgrace him to say, "Are you, Sir, a Member of the Association?" or "Are you one of the prosecutors?" There is no objection to putting that question. Permission to put that question will affect all that the justice of the case requires. If there should be a rule for a Special Jury, you will then be at liberty to get the names of such of the Members of this Association (as you suggest on your affidavits, your belief to be the prosecutors) as are qualified to serve as Special Jurymen; and the Freeholders' Book of the County of Middlesex shall be delivered to you, to enable you to reduce the 24. That is all that the justice of the case can require, without breaking in upon the established rules of the Court, and introducing a new precedent that may lead to very serious consequences.

Mr. Justice BAYLEY and **Mr. Justice HOLROYD** were of the same opinion.—Rule refused.

Mr. Justice BEST was absent.

Europe Deaths.

At Alton, Hants, Mrs. Sophia Clementina Docker, daughter of the late Rev. Lancelot Docker, Rector of Keevil, Wilts.

At Newington, David Horn, Esq. in the 80th year of his age.

In Charlotte-street, Fitzroy-square, Jane, the second daughter of Wm. Hudson, Esq. of Frogmore Lodge, Herts, aged 13 years.

At Kentish Town, aged 30, Nancy Mary, the wife of Mr. W. C. Ayton of Barnard's Inn, Solicitor.

In the 80th year of her age at Higham Hills, Woodford, Mrs. Harman, relict of the late John Harman, Esq.